

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

ALEXANDRA RIKAS, )  
Plaintiff, )  
vs. ) No. 13 CV 2069  
P. O. THOMAS BABUSCH, et )  
al., )  
Defendants. )

The deposition of DAVID HAKALA, called for examination pursuant to the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before Angelita Olander, a CSR within and for the County of Cook and State of Illinois, at 547 West Jackson Boulevard, Chicago, Illinois, on the 17th day of November, 2014, at the hour of 1:00 o'clock p.m.

Reported by: Angel i ta Ol ander, CSR

License No. : 084-004618

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I N D E X

WITNESS	EXAMI NATION
DAVID HAKALA	
By Ms. Atkins	4
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E X H I B I T S

NUMBER	I DENTI FI CATI ON
None.	

1 (Witness sworn.)

2 DAVID HAKALA,  
3 called as a witness herein, having been first duly  
4 sworn, was examined and testified as follows:

5 EXAMINATION

6 MS. ATKINS: Let the record reflect that this  
7 is the deposition of David -- is Hakala?

8 THE WITNESS: Yeah, you got it.

9 MS. ATKINS: H-A-K-A-L-A, taken pursuant to  
10 subpoena in the matter of Rikas versus Metra.

11 BY MS. ATKINS:

12 Q. Mr. Hakala, are you currently represented  
13 by counsel for purposes of your deposition today?

14 A. Yes, I am.

15 Q. And who is your counsel?

16 A. Fitzpatrick.

17 Q. Is that John Fitzpatrick?

18 A. Yes.

19 Q. When did you first retain Mr. Fitzpatrick  
20 to represent you for today's deposition?

21 A. I never hired him if that's what you're  
22 saying.

23 Q. That is what I'm saying.

24 A. No. I don't pay him money to represent

1 me, no.

2 Q. So fair to say, it's correct to say, that  
3 he is not your attorney?

4 A. Yes.

5 Q. What is your current residential address?

6 A. Is it okay if I -- because I just moved.

7 Q. Sure.

8 A. It is 942 Citizen Avenue and that is in  
9 Elburn, Illinois. Did you need the zip code, too?

10 Q. No. How long have you been there?

11 A. Almost a month.

12 Q. Prior to the address on Citizen Avenue in  
13 Elburn, where did you reside?

14 A. In Aurora. It was Apartment 202. I don't  
15 remember the exact address. I was only there for  
16 two months. I moved back in with my parents.

17 Q. In May of 2012, do you recall your  
18 residential address?

19 A. Yep. It's 310 Birch Drive and that was in  
20 Shorewood, Illinois.

21 Q. In May of 2012, did you reside there with  
22 any other persons?

23 A. Me and my girlfriend at the time  
24 Alexandra.

1 Q. Have you ever given a deposition before?

2 A. Never.

3 Q. I'll just give you a couple of the  
4 guidelines. It's nothing like you see on TV. No  
5 bright light is going to come down on your face.  
6 I won't flip over the table, but you can see  
7 there's a court reporter here today.

8 She is going to very skillfully take down  
9 every word that I say, every word that you say, and  
10 every word that Mr. Fitzpatrick may say. Keeping  
11 that in mind, make sure you provide all of your  
12 answers out loud and in words. Depositions can  
13 sometimes get a little conversational, meaning you  
14 may anticipate what my question is going to be  
15 before I finish asking it. Just kind of hold back  
16 a little bit, wait until I finish asking my  
17 question before you answer.

18 And I'll try not to interrupt you when  
19 you're providing your answer to any of my  
20 questions, okay?

21 A. Sounds good.

22 Q. At any point in time you see me gesture  
23 toward my lips, it's just a non-verbal cue to  
24 provide your answer out loud. Sometimes we'll

1 shrug our shoulders, shake our head, nod our head,  
2 do the uh-huh, un-un kind of thing.

3 So if you see me go like this toward my  
4 lips, it's just reminding you like yes, no,  
5 whatever the answer may be, okay?

6 A. Sounds good.

7 Q. At any point in time you require a break,  
8 let me know. I understand it's the middle of a  
9 workday so you may have a phone call or need a  
10 bathroom break, whatever you need. Just let me  
11 know.

12 The only thing that I ask is that if I do  
13 have a question that I've asked and you haven't  
14 answered, please, provide me the answer before you  
15 take a break, okay?

16 A. Sure.

17 Q. Finally, any point in time I ask you a  
18 question that is confusing, just poorly worded,  
19 doesn't make any sense, it's the middle of the day,  
20 I've had some caffeine, I might get a little hyper,  
21 you let me know and I'll re-ask it, okay?

22 A. Sounds good.

23 Q. If you answer a question, I can only  
24 assume you understood exactly what was being asked;

1 fair enough?

2 A. Fair.

3 Q. What is your date of birth?

4 A. October 2nd, '1987.

5 Q. I'm going to ask you for your social  
6 security number, but I'm only going to ask for it  
7 off the record; meaning that the court reporter  
8 will not put it on the transcript so it won't  
9 become public record if that's okay with you?

10 A. What do you need the social security  
11 number for?

12 Q. I do it for witness investigation. You've  
13 been disclosed by Ms. Rikas as the eyewitness to  
14 the incident alleged in her federal lawsuit.

15 MS. ATKINS: Off the record.

16 (WHEREUPON, a discussion was  
17 held off the record, after  
18 which the deposition  
19 continued.)

20 MS. ATKINS: Back on the record.

21 BY MS. ATKINS:

22 Q. Are you currently employed?

23 A. Yes.

24 Q. By whom?



1           A.     Dunkin Donuts.

2           Q.     How long?

3           A.     Just over a year, a year and two months  
4 I believe.

5           Q.     In may of 2012, were you employed?

6           A.     Yes, I was.

7           Q.     By whom?

8           A.     I was working for, I believe, a liquor  
9 store. I'm not 100 percent on that.

10          Q.     Do you recall where this liquor store was  
11 located?

12          A.     Off of 59 in Shorewood slash Plainfield.  
13 It's across the street from the Walmart that's over  
14 there.

15          Q.     I understand that in May of 2012 you and  
16 Ms. Rikas were dating; is that correct?

17          A.     Yes.

18          Q.     And you already previously testified at  
19 the time the two of you resided at the Birch  
20 address in Shorewood, correct?

21          A.     Yes.

22          Q.     When was the last time you spoke with  
23 Ms. Rikas?

24          A.     Actually, she resided at the house behind

1 me at that time. She didn't move in quite yet.

2 Q. So am I correct in understanding that in  
3 May of 2012 --

4 A. She lived on Edgebrook and I lived on  
5 Birch. So it was the street right behind my house.

6 Q. When did she move into the Birch address  
7 with you?

8 A. The year 2013 some time.

9 Q. When was the last time you spoke with  
10 Ms. Rikas?

11 A. Couple weeks ago.

12 Q. Did you and she discuss your deposition?

13 A. Not at all.

14 Q. Did you and she discuss her federal  
15 lawsuit?

16 A. No.

17 Q. Have you and she ever discussed your  
18 deposition since you were served with the subpoena?

19 A. Never.

20 Q. As far as you know, is Ms. Rikas aware  
21 that you're here today?

22 A. Yes.

23 Q. How do you know she's aware that you're  
24 here today?

1           A.     Because I was informed by Mr. Fitzpatrick  
2     that she was told that the papers were served.

3           Q.     Did you review any paperwork before coming  
4     to your deposition today?

5           A.     No.

6           Q.     No paperwork in preparation for today's  
7     testimony?

8           A.     Not really, no.

9           Q.     Not really or no?

10          A.     No. Just a brief discussion what a  
11     disposition (sic) is and that I'm allowed to take  
12     breaks, stuff like that.

13          Q.     And that conversation was with  
14     Mr. John Fitzpatrick?

15          A.     Yes.

16          Q.     Other than discussing what a deposition is  
17     or that you're entitled to take breaks, what other  
18     conversation did you and Mr. John Fitzpatrick have  
19     before appearing here today?

20          A.     Nothing. Just the time, the date.

21          Q.     You and Mr. Fitzpatrick never discussed  
22     Ms. Rikas' deposition testimony in this case?

23          A.     Not at all.

24          Q.     Did you and Mr. John Fitzpatrick discuss

1 any specifics about Ms. Rikas' allegations in this  
2 lawsuit?

3 A. I know about them but I was never in any  
4 conversations about them.

5 Q. How were you aware of the allegations?

6 A. Through the criminal case with the ticket  
7 for trespassing.

8 Q. Were you present at the trial?

9 A. Yes. I was a witness for that case, too.

10 Q. Did you actually testify during that  
11 trial?

12 A. No, I did not.

13 Q. Did Ms. Rikas testify during that trial?

14 A. I believe so.

15 Q. Were you present in the courtroom during  
16 all of the testimony?

17 A. No, I was in the hallway.

18 Q. And that's because you were a witness,  
19 correct?

20 A. Yes.

21 Q. Were you present in the courtroom for any  
22 portion of that trial?

23 A. Just kept going back and forth, like  
24 continuances stuff like that. That was it.

1 Nothing that was actually talked about in front of  
2 me, no.

3 Q. Were you physically present in the  
4 courtroom on the day that any witness provided any  
5 testimony in that criminal case?

6 A. I was not present for any testimony.

7 Q. Were you present when the Court handed  
8 down its decision in that case?

9 A. I was not. I was in the hallway.

10 Q. Just to be very clear, you have no  
11 personal knowledge as to anything that was said in  
12 the courtroom?

13 A. No.

14 Q. Other than what you've already told me,  
15 have you and Ms. Rikas' attorney have any  
16 conversation about this pending federal lawsuit?

17 A. What do you mean by that?

18 Q. Have you been interviewed by Ms. Rikas'  
19 attorneys?

20 A. Yes, briefly, to discuss my side  
21 witness-wise.

22 Q. When did that interview take place?

23 A. Just after the criminal case was over  
24 with. I'm not sure when that was.

1 Q. Where did it take place?

2 A. At Fitzpatrick and Fitzpatrick law office  
3 I believe it's called.

4 Q. Can you tell me what you told Ms. Rikas'  
5 attorney about your side, as you put it, of what  
6 happened?

7 MR. FITZPATRICK: We agree that I'm not his  
8 lawyer, right? I mean we agree to that?

9 MS. ATKINS: As I'm taking his testimony, it's  
10 true that you're not his attorney.

11 MR. FITZPATRICK: Okay, fine.

12 THE WITNESS: We were on the train to go back  
13 to Joliet and we were sitting on the top part and  
14 we were told to leave the train and we did. We  
15 were the last ones.

16 We got up and I helped Alex down the  
17 stairs to go to the bottom part of the train, down  
18 the train stairs to go outside the train, and at  
19 that time Babusch was behind us and he said that if  
20 he hears one more word coming out of Alex' mouth,  
21 he's going to place us under arrest.

22 Alex turned around and said, place us  
23 under arrest for what? That's when she was on my  
24 side, the next thing I know, Babusch grabbed her by

1 the shoulders, smashed her down. And she tried to  
2 get up down, and he took her by the back of the  
3 neck and pushed her head down again, and she was  
4 screaming. And Babusch's partner was holding me  
5 back saying, stay out of it.

6 Next thing I know, she was arrested and  
7 all this happened.

8 BY MS. ATKINS:

9 Q. As I mentioned earlier, Ms. Rikas has  
10 identified you as a witness who was with her the  
11 evening of the incident for which she's suing.

12 By the evening, I mean like mid-afternoon  
13 until after the incident occurred; is that  
14 accurate?

15 A. Yes.

16 Q. We've already established she was your  
17 girlfriend at the time, correct?

18 A. Yes.

19 Q. How long had the two of you been dating as  
20 of May of 2012?

21 A. I believe about two years, maybe two and a  
22 half years.

23 Q. You two are no longer dating, correct?

24 A. No.

1 Q. That is correct?

2 A. Yes.

3 Q. Are the two of you still dating?

4 A. No, we are not.

5 Q. When was the last time you two dated?

6 A. October of last year.

7 Q. October of 2013?

8 A. Yes, is when we broke up.

9 Q. The two of you are you still in contact  
10 with one another on occasion?

11 A. Yeah. Like, hi, how's it going; how's  
12 life treating you. That's it.

13 Q. I know from Ms. Rikas' answers to  
14 discovery in her deposition testimony in this case  
15 that she had consumed a lot of alcohol on May 8th,  
16 the day that this happened; is that a fair  
17 statement?

18 A. Yeah, we were drinking.

19 Q. When did you and Ms. Rikas first meet up  
20 on May 8th of 2012?

21 A. Is that the day everything happened?

22 Q. Yeah. It kind of went from May 8th into  
23 very early May 9th. So you would have started your  
24 evening May 8th and then everything ended on the



1 9th.

2 A. We were going to Chicago because it was  
3 her last day in Illinois. She was going to go back  
4 home to Arizona just to be with her sister and  
5 stuff. She's never really been down here so I was  
6 going to take her downtown.

7 We went out to eat, went to Navy Pier,  
8 went to Millennium Park, saw the bean, all that  
9 stuff. And we were on our way coming back home  
10 around -- I believe it was -- I'm not sure what  
11 time it was. It was a late night.

12 Q. So do you have a clear recollection of  
13 that evening; meaning when you all left Joliet and  
14 came into Chicago up to the point when you  
15 mentioned Officer Babusch?

16 A. Yes, I do.

17 Q. From the point you all left Joliet to come  
18 to Chicago to when you first encountered Officer  
19 Babusch, do you have a clear recollection of that  
20 evening?

21 A. Yeah.

22 MR. FITZPATRICK: Objection. Asked and  
23 answered.

24 THE WITNESS: For the most part. I mean, it's

1     been two and a half years already. So for the most  
2     part I believe so.

3     BY MS. ATKINS:

4           Q.     When you first encountered  
5     Officer Babusch, in your own assessment, do you  
6     believe yourself to have been intoxicated?

7           A.     No.

8           Q.     How much alcohol had you consumed that  
9     evening?

10          A.     I do not remember exactly.

11          Q.     Do you recall when you had your first  
12     drink on May 8th?

13          A.     Yes. We went out to eat and I had a  
14     Budweiser.

15          Q.     And was this out to eat in the City?

16          A.     Yeah, at some restaurant out here.

17          Q.     So it's your testimony you had not  
18     consumed any alcohol prior to arriving in Chicago  
19     on May 8th?

20          A.     Correct.

21          Q.     Had Alex consumed any alcohol prior to  
22     arriving in Chicago on May 8th?

23          A.     Not to my knowledge, no.

24          Q.     You didn't personally witness her consume

1 any; is that correct?

2 A. Not at all.

3 Q. You all arrived in Chicago on the Metra  
4 train, correct?

5 A. Yes.

6 Q. And did that train leave Joliet?

7 A. Yes, it did.

8 Q. At the LaSalle Street station?

9 A. Yes.

10 Q. Are you familiar with the area surrounding  
11 LaSalle Street station?

12 A. Not really. I mean, I can get around if I  
13 had to but off the back of my hand, no.

14 Q. Where was the first place that you and  
15 Alex -- forgive me if I interchange between Alex  
16 and Ms. Rikas.

17 We know it to be the same person?

18 A. Yes.

19 Q. Where was the first place that you and  
20 Alex went after getting off the train at LaSalle  
21 Street station?

22 A. We went to go get something to eat.

23 Q. Do you recall where?

24 A. I am not 100 percent on the restaurant.

1 Q. Did you guys get there on foot?

2 A. Yes, we walked most of the night.

3 Q. If you walk out of the LaSalle Street  
4 station, are you able to tell me -- if I wanted to  
5 go east would you be able to tell me which way to  
6 turn?

7 A. I do not know. I got lost coming here  
8 so...

9 Q. Do you know in which direction Lake  
10 Michigan is from the LaSalle Street station?

11 A. All's I know is the lake is east.

12 Q. If you exited LaSalle Street station and  
13 you wanted to go to Lake Michigan, would be able to  
14 just automatically start walking in that direction?

15 A. No, I would have to ask somebody.

16 Q. What type of restaurant did you and Alex  
17 go to when you first arrived in Chicago?

18 A. Kind of casual, a burger place.

19 Q. Was it counter service like a McDonald's,  
20 fast food --

21 A. No. We sat at a table. A waitress  
22 brought our food.

23 Q. You said like a burger place, was it a  
24 burger place?

1 MR. FITZPATRICK: Objection. Form.

2 THE WITNESS: Yeah, I had a burger, had a  
3 burger and a beer, and that was it.

4 BY MS. ATKINS:

5 Q. Do you recall what Alex ordered?

6 A. Probably chicken.

7 Q. Is that usually what she ordered was  
8 chicken?

9 A. Yeah.

10 Q. Did she order a drink?

11 A. I believe so. I believe -- yeah, I want  
12 to say yeah.

13 Q. Do you recall what type of drink it might  
14 have been?

15 A. I have no idea.

16 Q. Was it an alcoholic beverage?

17 A. Yes.

18 Q. You don't recall if it was beer or liquor?

19 A. I do not recall, no.

20 Q. Do you recall if it was wine?

21 A. I can't remember what she ordered.

22 Q. In May of 2012, I believe, you said you  
23 and Alex had been dating for like two, two and a  
24 half years at that point?

1           A.     Yes.

2           Q.     Did she have a drink of choice that you  
3     were aware of?

4           A.     No.

5           Q.     After the two of you ate at this  
6     restaurant where you most likely had a burger and  
7     she most likely had chicken, where did you go next?

8           A.     I believe after that we went to Navy Pier.

9           Q.     Did you have just the one beer at dinner?

10          A.     At the restaurant, yes.

11          Q.     Did Alex have one or more drinks at the  
12     restaurant?

13          A.     We each just had one drink. That was it.

14          Q.     Who paid for dinner?

15          A.     I have no idea.

16          Q.     Did you bring cash with you that evening?

17          A.     Yes, I always have cash on me.

18          Q.     Do you normally pay in cash?

19          A.     It's a mix between cash and credit card.

20          Q.     In the two, two and a half years that you  
21     had been dating Alex in May of 2012, did you know  
22     her to use cash or credit card or debit card?

23          A.     A mix between credit and cash.

24          Q.     Did the two of you share an account back

1 in May of 2012?

2 A. No.

3 Q. After dinner, you two made your way over  
4 to Navy Pier; is that correct?

5 A. Yes.

6 Q. What time had you arrived in Chicago?

7 A. We got to the City itself around 2:30,  
8 3:00 o'clock maybe.

9 Q. What time do you think you ate dinner?

10 A. About 4:00, 4:30.

11 Q. What did you do between 2:00, 2:30 and  
12 4:00 or 4:30 on May 8th?

13 A. Tried to find our way around the City,  
14 started walking.

15 Q. Where did you walk during those,  
16 approximately, two hours?

17 A. Just anywhere. Just looked at the  
18 buildings. Like I said, she's never been down here  
19 to see anything. So I was just showing her around.

20 Q. What sites did you show her during those  
21 first two hours?

22 A. We saw the skyline. She rode the Ferris  
23 wheel at Navy Pier. She saw Millennium Park.

24 I believe we saw Buckingham Fountain, but I'm not

1     sure about that; and just looked at the different  
2     artwork statues around the City.

3           Q.     When you first arrived in Chicago and you  
4     left the LaSalle Street station, do you think you  
5     might have walked to the lake front to see the  
6     skyline first?

7           A.     We didn't -- right when we got off the  
8     train, we walked around and went looking for a  
9     place to eat.

10          Q.     But you didn't eat for approximately two  
11     hours after arriving, correct?

12          A.     Yes.

13          Q.     And during those two hours, is that when  
14     you saw the skyline?

15          A.     No. We saw the skyline at Navy Pier.  
16     I believe that's the skyline.

17          Q.     And you rode the Ferris wheel at  
18     Navy Pier, correct?

19          A.     Yes, that was her first time.

20          Q.     And you said you may have seen Buckingham  
21     Fountain, correct?

22          A.     Yes, sorry.

23          Q.     Was that before or after dinner?

24          A.     Navy Pier was after dinner.



1           Q.     But Buckingham Fountain, was that before  
2     or after dinner?

3           A.     That was all after.

4           Q.     And the bean was after dinner?

5           A.     Yes, it was.

6           Q.     So, again, where did the two of you go  
7     from 4:00, 4:30 until 6:00 or 6:30.

8           A.     Like I said, we just walked around and saw  
9     the different artwork. Passed by the Daley Center,  
10    saw the Picasso, saw that big spider thing.  
11    I don't know what exactly it is.

12          Q.     The flamingo in front of the federal  
13    building?

14          A.     I guess. I have no idea. Just saw  
15    different statues and walked around and looked at  
16    the buildings.

17          Q.     During those two hours, did you all  
18    consume any alcoholic beverages?

19          A.     Not after we ate, no.

20          Q.     Before you ate?

21          A.     Before we ate sorry.

22          Q.     And you didn't consume any on the train  
23    ride in, correct?

24          A.     No, not at all.

1           Q.     So other than walking around seeing the  
2     Daley Center, seeing the Picasso, seeing the spider  
3     thing, which I'm thinking might be the flamingo  
4     because it does look like a spider, can you tell me  
5     any other specific place that the two of you went  
6     to between first arriving at 4:00 or 4:30 in the  
7     afternoon and having dinner at 6:00 or 6:30?

8           A.     We had dinner around 4:00 or 4:30.

9           Q.     Oh, I'm sorry. You arrived at 2:00 or  
10    2:30, correct?

11          A.     Yeah. We arrived at 2:30, 3:00 o'clock,  
12    and didn't eat until 4:00 or 4:30.

13          Q.     Had you two of you been together all day  
14    like since the morning, since you woke up in the  
15    morning?

16          A.     About. I mean, I walked over to where she  
17    lived at the time around 10:00 o'clock.

18          Q.     From when you first saw Alex in the  
19    morning at around 10:00 o'clock until you arrived  
20    in Chicago around 2:30 or 3:00, had the two of you  
21    consumed any food together?

22          A.     Together, no.

23          Q.     To your knowledge, had Alex consumed any  
24    food that day?

1           A.     Pretty sure she had breakfast. I wasn't  
2     with her. I don't know.

3           Q.     Does she normally eat breakfast?

4           A.     Yeah, she normally eats breakfast.

5           Q.     To your knowledge, did Alex consume any  
6     alcoholic beverages before you got to her house?

7           A.     Not at all.

8           Q.     Did Alex consume any over-the-counter  
9     medication before you arrived?

10          A.     No.

11          Q.     Did she consume any over-the-counter  
12     medication while she was in your presence at all on  
13     May 8th?

14          A.     Not at all.

15          Q.     Did she consume any prescription  
16     medications before you arrived?

17          A.     Not at all.

18          Q.     Was she taking any prescription  
19     medications in May of 2012?

20          A.     No.

21          MR. FITZPATRICK: Object to that  
22     question previous -- never mind. Just object to  
23     the form.

24          THE WITNESS: No.

1 BY MS. ATKINS:

2 Q. Prior to the two of you getting to  
3 Chicago, did she consume any prescription drugs in  
4 your presence?

5 A. No, she did not.

6 MR. FITZPATRICK: Objection. Relevance, form.

7 MS. ATKINS: John, respectfully, until you have  
8 an appearance on file, I might have a problem with  
9 you levying objections.

10 MR. FITZPATRICK: If you won't let me make  
11 objections, then I got to get someone here who can  
12 if you don't want me to make objections.

13 MS. ATKINS: No, that's fine. I mean you don't  
14 represent him. So it's not like he has to follow  
15 the objections, but you need to make them on the  
16 record --

17 MR. FITZPATRICK: The objection is just because  
18 it's potentially an evidence dep, potential  
19 evidence, so I want to make my objections on behalf  
20 of my client. If you want, I can make sure the  
21 appearance gets on file now? If you want to right  
22 now --

23 MS. ATKINS: Yeah.

24 MR. FITZPATRICK: Why don't we do that. So we

1 can go off record.

2 MS. ATKINS: I trust that it'll get done.

3 (WHEREUPON, a break was held  
4 off the record, after which  
5 the deposition continued.)

6 MS. ATKINS: All right?

7 MR. FITZPATRICK: It's okay with me.

8 BY MS. ATKINS:

9 Q. In the two, two and a half years that you  
10 had been dating Ms. Rikas in May of 2012, had you  
11 known her to consume any illicit drugs?

12 A. No.

13 Q. Had you ever seen her smoke marijuana?

14 A. No.

15 Q. Have you ever seen her take any  
16 narcotics --

17 A. No.

18 MR. FITZPATRICK: Objection. Form, foundation.

19 BY MS. ATKINS:

20 Q. -- that were not prescribed to her?

21 A. Never.

22 Q. You already told me that she didn't have a  
23 particular favorite drink to your recollection; is  
24 that true?

1 MR. FITZPATRICK: Objection. Asked and  
2 answered.

3 THE WITNESS: Yes.

4 BY MS. ATKINS:

5 Q. Have you ever worked in the service  
6 industry? I know you said you worked in the --

7 A. Food-wise?

8 Q. Yeah.

9 A. All my life.

10 Q. I don't know if they still call it this  
11 but are you familiar with like a Basset  
12 certification, B-A-S-S-E-T, certification?

13 A. I've never heard of that.

14 Q. In your experience in the service  
15 industry, have you ever been required to undergo  
16 any training in order to serve or sell alcoholic  
17 beverages?

18 A. No.

19 Q. Have you ever had any on-the-job training  
20 on assessment of a person's intoxication level?

21 A. No.

22 Q. Have you ever been asked in -- I think,  
23 you said you've been in the service your entire  
24 working life?

1           A.     Since I was 17.

2           Q.     Since you were 17-years old?

3           A.     Yes.

4           Q.     Since you were 17 working in the service  
5 industry, have you ever been asked to assess a  
6 patron's intoxication level?

7           A.     I've never been asked, no.

8           Q.     Have you personally ever assessed a  
9 person's intoxication level?

10          A.     Yes, I have.

11          Q.     For what person?

12          A.     Because they were acting erratic and  
13 I used to work for a catering company so I had to  
14 take care and make sure the wedding ran smooth or  
15 Mardi Gras party and we've had to escort people  
16 out, call police.

17          Q.     Stop serving them when they're --

18          A.     Well, I was never the bartender but, yeah,  
19 call the police. Pretty much decide whatever,  
20 security.

21          Q.     During the evening of May 8th from when  
22 you and Alex first arrived in Chicago to when you  
23 had your first interaction with Officer Babusch,  
24 would you have assessed Alex as being intoxicated

1 at any point in time during that evening?

2 A. Was she blacked out, wasted drunk, no; but  
3 would she blow over a .08, yes.

4 Q. So you're familiar with the legal  
5 intoxication limit for operating a motor vehicle --

6 A. Yes.

7 Q. -- is .08, correct?

8 MR. FITZPATRICK: Objection.

9 THE WITNESS: Yes.

10 MS. ATKINS: Grounds?

11 MR. FITZPATRICK: I object to the form.

12 I object to it's a legal conclusion or it's a legal  
13 opinion and I object to the relevance.

14 BY MS. ATKINS:

15 Q. Your answer was yes?

16 A. Am I familiar with .08 of the law, yeah.

17 Q. When you and Alex were at Navy Pier on  
18 May 8th, did you consume any alcoholic beverages at  
19 Navy Pier?

20 A. Me or her did not drink at Navy Pier.

21 Q. How long do you think you were at  
22 Navy Pier?

23 A. A few hours I guess.

24 Q. Where did you go after Navy Pier?



1           A.     We just walked down the lake. Like we  
2 walked to Millennium Park I believe is over there  
3 somewhere and then Buckingham Fountain.

4           Q.     While you were walking along the lake  
5 front or at or near Buckingham Fountain, did you  
6 purchase any alcoholic beverages?

7           A.     No.

8           Q.     Did you consume any alcoholic beverages?

9           A.     No.

10          Q.     During this period in time after leaving  
11 Navy Pier and walking the lake front including the  
12 bean, Buckingham Fountain, it's your testimony that  
13 neither of you consumed any alcohol?

14          A.     Not at all.

15          Q.     Where did you go after  
16 Buckingham Fountain?

17          A.     We walked back into the City and I believe  
18 we saw the Sears Tower, stuff like that, the  
19 Four Seasons hotel. My dad used to work there so  
20 I wanted to show her that. Just looked at the  
21 buildings.

22          Q.     So the Four Seasons near Water Tower?

23          MR. FITZPATRICK: Objection. Form.

24          THE WITNESS: I believe it's by the

1 John Hancock.

2 BY MS. ATKINS:

3 Q. So the way that I'm picturing your route  
4 is you arrive in Chicago at 2:30 or 3:00 p.m.,  
5 correct?

6 A. Yes.

7 Q. And you make your way to a restaurant  
8 where you had a Budweiser and burger, correct?

9 A. Uh-hum, yes.

10 Q. And Alex had most likely chicken and some  
11 sort of alcoholic beverage, correct?

12 A. Yes.

13 Q. One each, one drink each, correct?

14 A. Yes.

15 Q. You then walk to Navy Pier, correct?

16 A. Correct.

17 Q. And you do the Ferris wheel and walk  
18 around, correct?

19 A. Yes.

20 Q. And I think you were there for maybe three  
21 hours?

22 A. Yeah, a few hours.

23 Q. Then you make your way from Navy Pier to  
24 Millennium Park?

1           A.     Yes.

2           Q.     You guys walk the lake front, correct?

3           A.     Yes.

4           Q.     You saw Buckingham Fountain?

5           A.     I believe so, yes.

6           Q.     And the bean?

7           A.     We saw the bean.

8           MR. FITZPATRICK: Object to the relevance of  
9 all this as well.

10          BY MS. ATKINS:

11           Q.     You then make your way from the bean to  
12 the Four Seasons where your dad used to work or did  
13 you go to the Sears Tower first?

14           A.     I do not remember what we hit first.  
15 I mean we were all over the place. Like I said,  
16 it's been like two and a half years. We walked all  
17 over the City.

18           Q.     Did you walk Michigan Avenue from the bean  
19 to Sears Tower?

20           A.     I couldn't even tell you. I don't know  
21 even know where Michigan Avenue is.

22           Q.     But you can't recall if you saw the Sears  
23 Tower first or John Hancock first, correct?

24           A.     Yeah. I don't even believe we saw the

1 John Hancock. I said the Four Seasons was by the  
2 John Hancock. I know we saw the Sears Tower and  
3 that's it.

4 Q. The last site that you and Alex saw before  
5 heading back to the LaSalle Street station to go  
6 home on the train -- can you tell me what major  
7 site it was that you saw?

8 MR. FITZPATRICK: Objection. Form.

9 THE WITNESS: We didn't see a major site. We  
10 had something small to eat and something to drink  
11 before we got back on the train.

12 BY MS. ATKINS:

13 Q. But just to be clear on the record, are  
14 you telling me that at no time between having your  
15 burger and beer and chicken and drink when you  
16 first arrived in Chicago at -- I believe, you said  
17 you consumed that food and that drink at 4:00,  
18 4:30; is that correct?

19 A. Yeah, somewhere around there.

20 Q. Are you telling me that you did not eat or  
21 drink until just before you made your way back to  
22 the train?

23 A. No.

24 MR. FITZPATRICK: Objection. Form, leading.

1     Mischaracterizes his prior testimony.

2     BY MS. ATKINS:

3           Q.     You told me you didn't eat or drink  
4     anything at Navy Pier, correct?

5           A.     Correct.

6           Q.     And you were there, approximately, three  
7     hours?

8           A.     Yeah, about three hours.

9           Q.     You told me you didn't eat or drink  
10    anything while you were walking the lake front,  
11    correct?

12          A.     No, we did not. Correct, yes.

13          Q.     You told me you didn't eat or drink  
14    anything when you were in the vicinity of  
15    Buckingham Fountain and the bean, correct?

16          A.     Correct.

17          Q.     Did you eat or drink anything when you  
18    were in the vicinity of the Four Seasons?

19          A.     Yes. When we walked around the City, we  
20    would stop at little side places, like hole in the  
21    wall places, just to do it and ate whatever.

22          Q.     By just to do it, you mean just to pop in?

23          A.     Just to pop in, yeah.

24          Q.     And you would eat?

1           A.     Yes.

2           Q.     Would you drink?

3           A.     Yes.

4           Q.     Were you drinking alcohol?

5           A.     Sometimes, yes.

6           Q.     How many places did you pop into while  
7 walking around the City to drink alcohol?

8           A.     I couldn't tell you. It's been a long  
9 time. More than two, not anymore than five though.

10          Q.     Did you have more than one drink in each  
11 spot?

12          A.     Not in each spot, no.

13          Q.     Did you have only one drink in each spot?

14          A.     Not only one drink in each spot. Some  
15 spots we did, but they were kind of sketchy spots  
16 so we just left.

17          Q.     Between having the burger and beer and the  
18 chicken and the drink at 4:00 or 4:30 in the  
19 evening until you returned to the LaSalle Street  
20 station, how many alcoholic drinks do you think you  
21 consumed during that time period?

22          A.     I couldn't give you a number.

23          Q.     How many did Alex drink?

24          A.     I couldn't even give you a number.

1 Q. Alex drink more than five?

2 A. I don't believe so.

3 Q. I thought you just testified that you had  
4 popped into at least five places where you had at  
5 least one drink, if not more, in each spot; is that  
6 true?

7 MR. FITZPATRICK: Objection. Mischaracterizes  
8 his prior testimony. Form, foundation, improper  
9 form.

10 BY MS. ATKINS:

11 Q. Is that what you said?

12 A. But I also said we didn't only drink  
13 alcohol. We also had soda and small things to eat.

14 Q. In what spots did you only have sodas?

15 A. I couldn't give you names. They were like  
16 hole in the wall places.

17 Q. Can you give me the names of any of the  
18 places that you all stopped in?

19 A. I cannot.

20 Q. Not even where you had the burger and the  
21 beer, correct?

22 A. No.

23 Q. So just to be crystal clear on the record,  
24 you cannot tell me anywhere where you guys went?

1           A.     I cannot, no.

2           MR. FITZPATRICK:  Objection to the form,  
3   objection leading, and mischaracterizes his prior  
4   testimony.

5   BY MS. ATKINS:

6           Q.     Did I mischaracterize your testimony that  
7   you can't tell me the name of a single restaurant  
8   or bar that you went into?

9           MR. FITZPATRICK:  Objection.  Form, badgering  
10   the witness.

11          THE WITNESS:  I don't know what that means.

12   BY MS. ATKINS:

13          Q.     Can you tell me the names of any  
14   restaurant or bar that you and Alex went into on  
15   May 8th of 2012?

16          A.     No, I cannot.

17          Q.     That's all I was asking.  I believe you  
18   stated just a few moments ago that prior to going  
19   back to the LaSalle Street station to board the  
20   train to go home, you and Alex stopped at one last  
21   place; is that correct?

22          A.     Yeah, a little wine place.

23          Q.     Can you tell me how far from the train  
24   station that wine place was?



1           A.     Within walking distance because we walked  
2     the whole night. Well, most of the night.

3           Q.     Did you have an alcoholic drink when you  
4     were at this wine place?

5           A.     Yes, we each had wine.

6           Q.     Did you have more than one glass of wine?

7           A.     No.

8           Q.     During this time that you and Alex were  
9     downtown from first arriving at 2:30 or  
10    3:00 o'clock in the afternoon until you got --  
11    actually got to the wine bar at the end of the  
12    evening, in your opinion, did you believe Alex to  
13    be intoxicated?

14          A.     Like I said before, she wasn't blackout  
15    wasted, but she would blow over a .08.

16          Q.     Had you -- in the two, two and a half  
17    years that you and Alex had been dating in May  
18    of 2012, had you seen her blackout wasted?

19          A.     Yes, I have.

20          Q.     How many times do you think you had seen  
21    her blackout wasted?

22          MR. FITZPATRICK:   Objection.   Form, foundation,  
23    relevance.

24          THE WITNESS:   Maybe once at our house and that

1 was i t.

2 BY MS. ATKINS:

3 Q. When you say that -- in your assessment,  
4 she would blow over a .08; is that correct?

5 A. Yes.

6 Q. What do you base that on?

7 A. Her weight, her size.

8 Q. But you can't tell me how many drinks she  
9 had, right?

10 A. No. Just pretty much common sense of how  
11 big she is compared to what -- the whole night.  
12 More than one drink would probably put her over  
13 .08.

14 Q. How much did Alex weigh at the time?

15 A. 100 pounds.

16 Q. When you got to the wine bar on May 8th,  
17 approximately, what time do you think it was?

18 A. It was just before we got to Metra. So a  
19 few hour timeframe from the Metra incident, I don't  
20 know. A few hour timeframe, I'm not sure.

21 Q. So you think you got to the wine bar a few  
22 hours before the incident at the train station?

23 A. Yes. Because we had to walk and wait for  
24 the train and then board the train and then right

1 before the train left is when we were asked to  
2 leave.

3 Q. What time was the train leaving?

4 A. I believe that was the last train out to  
5 Joliet.

6 Q. Do you recall what time that was scheduled  
7 to leave?

8 A. I do not.

9 Q. Maybe around 12:30 in the morning?

10 A. Sure.

11 Q. Does that sound about right to you or no?

12 A. Yeah, about right. That sounds usual for  
13 a train schedule.

14 Q. So you think that you got to the wine bar  
15 you said a few hours before the train incident?

16 A. Yeah, within two hours.

17 Q. So maybe 10:30; fair to say?

18 A. Why not.

19 Q. And this wine bar was within walking  
20 distance of the train station; is that correct?

21 A. Yes, it was.

22 Q. When you left the wine bar -- strike that.

23 You said each of you only had one glass of  
24 wine at the wine bar?

1           A.     Yes.

2           Q.     After you left the wine bar, did you make  
3 any -- did you stop at the seven-eleven on the way  
4 to LaSalle Street station?

5           A.     Yes, we did.

6           Q.     And did you purchase a pint of the vodka?

7           A.     I did, yes.

8           Q.     Did you keep that pint of vodka on your  
9 person?

10          A.     In my back pocket.

11          Q.     What was your intention with the vodka?

12          A.     To keep the party going when we got home.

13          Q.     Did you intend to drink on the train?

14          A.     Not at all.

15          Q.     After leaving the wine bar and making your  
16 way to the LaSalle Street station, did Alex require  
17 your help in walking?

18          A.     Not really.

19          MR. FITZPATRICK:  Objection.  Form.

20          BY MS. ATKINS:

21          Q.     Was she stumbling at all?

22          A.     No.

23          THE WITNESS:  Can I take a break?

24          MS. ATKINS:  Of course.

1 THE WITNESS: Can I talk to you in the hall?  
2 (WHEREUPON, a discussion was  
3 held off the record, after  
4 which the deposition  
5 continued.)

6 MS. ATKINS: Back on the record. Let the  
7 record reflect that the witness just took a break  
8 with Plaintiff's counsel.

9 BY MS. ATKINS:

10 Q. What did you two talk about?

11 A. Just whether or not he wanted me to answer  
12 the questions when he said object.

13 Q. What did he tell you?

14 A. He said just keep answering them; you're  
15 doing fine.

16 Q. You understand he's not your attorney,  
17 correct?

18 A. I understand, yes.

19 Q. Did you discuss anything else about your  
20 testimony?

21 A. That was it.

22 Q. Did he give you any other direction?

23 A. No.

24 Q. When you and Ms. Rikas arrived at the

1 LaSalle Street station, approximately, what time  
2 was it?

3 A. To go home?

4 Q. Yes.

5 A. Just before the last train went. Maybe  
6 about half an hour before it left, 45 minutes.

7 Q. Did the two of you have tickets to board  
8 the train?

9 A. No, the ticket booth was closed. You had  
10 to buy them on the train.

11 Q. When you and Ms. Rikas took the train in  
12 from Joliet into Chicago earlier in the day, did  
13 you only purchase one-way tickets?

14 A. Yes.

15 Q. And was that because you didn't know what  
16 time you'd be returning?

17 A. Yeah.

18 Q. When you arrived at the LaSalle Street  
19 station, did you enter from the Van Buren side?

20 A. I'm not sure what side that is. It's the  
21 side with the stairs and you go through that  
22 tunnel.

23 Q. Did you actually go through the station  
24 itself or were you able to go directly onto the

1 platform to wait for the train?

2 A. It was like the street and then you got  
3 the side stairwell that runs along the side of the  
4 building to go straight up and that you got that  
5 little tunnel thing, that little pathway.

6 Q. I think that might be, if memory serves  
7 me, maybe the Congress entrance.

8 A. I have no idea.

9 Q. Neither here nor there.

10 Did you actually go inside of the station  
11 itself?

12 A. Yes, to use the restroom.

13 Q. When you were inside the station, other  
14 than using the restroom, did you purchase anything  
15 from any vending machines?

16 A. Not at all.

17 Q. Did Ms. Rikas use the washroom as well?

18 A. I don't believe so, no.

19 Q. When you and Ms. Rikas entered the LaSalle  
20 Street train station, I think, you said  
21 approximately like 30 minutes before the last train  
22 left for Joliet, were you and she arguing inside  
23 the station?

24 A. Not at all.

1 Q. Were you and she yelling at one another?

2 A. No.

3 Q. Were you and she using profanity?

4 A. No.

5 Q. Were you being loud in speaking with one  
6 another?

7 A. We weren't being loud, no.

8 Q. How often do you ride the Metra?

9 A. Pretty fair amount I guess.

10 Q. You're familiar with the uniform that the  
11 conductors wear?

12 A. Yes.

13 Q. When you and Ms. Rikas arrived at the  
14 LaSalle Street station and after you used the  
15 washroom, were you approached by a conductor?

16 A. Not a conductor, no.

17 Q. Were you approached by any Metra  
18 personnel?

19 A. A Metra officer, yes.

20 Q. A Metra police officer?

21 A. Metra police officer, yes.

22 Q. Can you describe that police officer for  
23 me?

24 A. Heavy set, Hispanic.



1           Q.     Did you catch the officer's name by any  
2 chance?

3           A.     No, I did not.

4           Q.     Did this officer say anything to you?

5           A.     Yes, he did. He asked us if everything  
6 was all right.

7           Q.     What did you say to him?

8           A.     I said, yes. I said, she's going to sit  
9 right here and I'm going to use the bathroom and  
10 I'll be right back.

11          Q.     So this was before you used the washroom  
12 you were approached by a police officer?

13          A.     Yes, before when we walked into the door  
14 area.

15          Q.     Like the vestibule area?

16          A.     Yeah, where you buy your ticket at.

17          Q.     And there was a men's washroom in that  
18 vicinity?

19          A.     Uh-hum. That's where you got the circle  
20 chairs.

21          Q.     And this police officer, this male  
22 Hispanic, heavy-set police officer approached you  
23 and Ms. Rikas?

24          A.     Yes, he did.

1 Q. He asked you if everything was okay?

2 A. Yes, he did.

3 Q. And you responded, yes, it is; she's going  
4 to sit right here and I'm going to go to the  
5 washroom?

6 A. Yes.

7 Q. Tell me what precipitated this officer  
8 approaching you and asking you if everything was  
9 okay.

10 MR. FITZPATRICK: Objection. Speculation,  
11 form.

12 THE WITNESS: I have no idea.

13 BY MS. ATKINS:

14 Q. What caused you to answer him that  
15 everything is okay and she was just going to sit  
16 down?

17 A. Because everything was okay.

18 Q. Was she stumbling; she being Ms. Rikas?

19 A. No.

20 Q. And she wasn't yelling?

21 A. No. We were just talking about her sister  
22 and stuff like that.

23 Q. She wasn't swearing?

24 MR. FITZPATRICK: Objection. Asked and

1     answered.

2           THE WITNESS:   I have no idea.   Probably, maybe  
3     not.   I don't know.   I can't remember.

4     BY MS. ATKINS:

5           Q.    If Ms. Rikas testified that it wouldn't be  
6     unusual at all if you guys were being loud and  
7     swearing, would that be an inaccurate statement  
8     from her?

9           A.    No.   I can't speak for her.   I mean...

10          Q.    So you have no clue why this police  
11     officer came up to you guys?

12          MR. FITZPATRICK:   Objection.

13          THE WITNESS:   Probably because he thought we  
14     were intoxicated or at least she was.

15     BY MS. ATKINS:

16          Q.    And he probably thought that because why?

17          MR. FITZPATRICK:   Objection.   Speculation.

18          THE WITNESS:   I have no idea.

19     BY MS. ATKINS:

20          Q.    She wasn't stumbling?

21          A.    No.

22          Q.    You weren't holding her arm to keep her  
23     steady when you guys were walking?

24          A.    When he approached us, she was sitting

1 down.

2 Q. I thought you told me that you told the  
3 officer she would sit down?

4 A. I said that she's going to sit here and  
5 I'm going to use the bathroom.

6 Q. She was already seated?

7 A. In the metal chairs, yes.

8 Q. You didn't ask the officer why he  
9 approached you?

10 A. No.

11 Q. After you told the officer that Ms. Rikas  
12 was just going to sit there and use the washroom,  
13 what happened next?

14 A. Nothing. I went to the bathroom. When I  
15 came back out, no one was there besides Alex.

16 Q. Was the police officer, this heavy set,  
17 Hispanic, male police officer, was he still present  
18 when you left to go to the washroom?

19 A. Yes.

20 Q. He was still standing where he had engaged  
21 you in conversation?

22 A. Yes, he was.

23 Q. He had not moved at all?

24 A. No.

1 Q. So it's your testimony that you left Alex  
2 sitting in the metal seats with this police officer  
3 and you turned and went to the washroom?

4 A. Yes.

5 Q. Did you say anything to Alex before you  
6 left to go use the washroom?

7 A. No.

8 Q. Did she say anything to you?

9 A. No.

10 Q. Was she and the police officer talking?

11 A. Not at all. She didn't say one word.

12 Q. She didn't say a single word to the  
13 officer during this exchange?

14 A. Not one word at all.

15 Q. You came out of the bathroom, the  
16 officer's gone, correct?

17 A. Yes.

18 Q. Alex is still seated where you had left  
19 her, correct?

20 A. Same seat.

21 Q. And what's the next thing you two did?

22 A. Walked out to board the train.

23 Q. Did you have to help Alex out of her seat?

24 A. No, I did not.

1 Q. Did the two of you have to walk through  
2 any doors to get to the train?

3 A. The door to leave the ticket booth area,  
4 and that was it.

5 Q. Could you see this heavy-set, male,  
6 Hispanic police officer?

7 A. Nowhere.

8 Q. And the two of you went through the doors  
9 out to the train platform?

10 A. Yes.

11 Q. Did you have to open the door to get  
12 through out to the train platform?

13 A. Yes, the doors were closed.

14 Q. When you were walking from the spot where  
15 Alex was seated out to the platform, did you have  
16 to assist her at all?

17 A. Assist her like as in walking? No.

18 Q. You didn't have to hold her arm to steady  
19 her walk?

20 A. Not at all.

21 Q. She wasn't stumbling at all?

22 A. Not at all.

23 Q. During this time, and this time being when  
24 you retrieved Alex after going to the washroom

1     until you went through the doors to get to the  
2     train platform, were the two of you yelling?

3           A.     Not at all.

4           Q.     Were you speaking loudly?

5           A.     No.

6           Q.     Were you using profanity?

7           A.     I don't believe so.

8           Q.     Were you approached by any other Metra  
9     personnel prior to boarding the train?

10          A.     No, not until we boarded the train and  
11     Babusch boarded the train.

12          Q.     When you and Alex made your way to the  
13     train, can you tell me how many railcars were on  
14     this particular train?

15          A.     I have no idea. I didn't count them.

16          Q.     Can you tell me which railcar you and Alex  
17     boarded?

18          A.     The one that was all the way to the left  
19     that was going toward Joliet.

20          Q.     And the train that was all the way to the  
21     left that was going to Joliet, can you tell me  
22     which rail car in that train you and Alex boarded?

23          A.     Not the first one. Probably three down,  
24     four down maybe. I'm not 100 percent. I wasn't

1 really keeping count of cars.

2 Q. But it's your testimony that the two of  
3 you walked a fair way -- did the two of you walk --

4 A. Pass a few cars?

5 Q. Yes.

6 A. Yes.

7 Q. And when you boarded -- strike that.

8 As you're making your way toward the third  
9 or fourth car down to board, did you see any other  
10 passengers?

11 A. Maybe sitting in some other cars but that  
12 was it. We were the only ones walking in there at  
13 the time.

14 Q. You don't see any other passengers on the  
15 platform?

16 A. No.

17 Q. When you and Alex boarded the train and  
18 entered the railcar which you ultimately sat, did  
19 you see any other passengers in that railcar?

20 A. No, we were the only ones at the time.

21 Q. Were you able to board the train without  
22 incident?

23 A. Yes.

24 MR. FITZPATRICK: Objection. Form.



1 BY MS. ATKINS:

2 Q. Did you have to assist Alex in climbing  
3 the stairs to get on the train?

4 A. Not at all.

5 Q. Did you and Alex sit on the -- strike  
6 that.

7 Was this a single level or a double level  
8 train?

9 A. It had chairs on the bottom and top.

10 Q. I believe you testified at the very  
11 beginning of your deposition that you and Alex sat  
12 on the top, correct?

13 A. Yes.

14 Q. Did you have to assist Alex up the stairs?

15 A. No.

16 Q. You did testify though that ultimately you  
17 had to help her down the stairs, correct?

18 A. Yes.

19 Q. Now, when you and Alex boarded the train  
20 and got up to the upper level, what did you and she  
21 do?

22 A. I sat down and I had my arm around her and  
23 she had her head on my chest, shoulder over here,  
24 and she was actually falling asleep; and then

1 Babusch comes in and says we got to leave.

2 Q. You refer to Babusch with a lot of  
3 certainty that it's Babusch who boarded the train.

4 A. Officer Babusch, Babusch.

5 Q. Describe Officer Babusch for me.

6 A. Tall, buzz cut, heavy build. I wouldn't  
7 call him fat. Stocky fat. I don't know.

8 Q. White, black?

9 A. White. Blond hair or dark blond,  
10 sandy blond, whatever.

11 Q. Was he wearing eyeglasses?

12 A. No, he was not.

13 Q. Did he have any facial hair?

14 A. I don't believe so.

15 Q. You and Alex are seated on the top level.

16 You have -- you indicated you have your  
17 right arm around her, correct?

18 A. Yes, I believe it was my right arm.

19 Q. And she was resting her head kind of like  
20 on your right chest?

21 A. Yeah, between the shoulder and chest.

22 Q. You said that she was starting to fall  
23 asleep?

24 A. Yes.

1 Q. Was she asleep when Babusch boarded the  
2 train?

3 A. No, but I did have to tell her, hey, wake  
4 up; we're getting kicked off the train.

5 Q. And, again, it's your testimony that while  
6 you and Alex made your way from the train station  
7 and boarded the train that the two of you were not  
8 yelling, correct?

9 A. Yes.

10 Q. You were not using profanity?

11 A. Not to my knowledge, no.

12 Q. That the two of you were not speaking  
13 loudly, correct?

14 A. Correct.

15 Q. And that you hadn't been approached by  
16 anyone other than this police officer earlier who  
17 would inquire whether or not you were okay; is  
18 that correct?

19 A. Yes.

20 Q. So you say that the two of you are on the  
21 train and Officer Babusch boards, correct?

22 A. Yes.

23 Q. Officer Babusch, tall, white, blond hair;  
24 he says what to you?

1           A.     You guys need to leave the train.

2     Something along those lines.

3           Q.     When you're seated on the upper level, are  
4     you toward one end of the train or the other or are  
5     you in the middle?

6           A.     We were in the middle with our backs near  
7     the window.

8           Q.     And Officer Babusch, when did you first  
9     see him?

10          A.     When he boarded the train.

11          Q.     So you know how the trains are set up,  
12     there are doors at the end of the aisles; are you  
13     familiar with that?

14          A.     To go from car to car?

15          Q.     Yes.

16          A.     Yes.

17          Q.     Were these doors opened or closed in the  
18     railcar that you were sitting?

19          A.     I didn't even pay attention.

20          Q.     When you first saw Officer Babusch, did he  
21     open the doors for you to see him or was he  
22     standing on the ground floor in front of you?

23          A.     He was standing on the ground in front of  
24     me when he told me to leave the train.

1           Q.     But did you see him actually board the  
2     train?

3           A.     Yes.

4           Q.     When you saw him board the train, is it at  
5     this point that you nudged Alex to get her  
6     attention?

7           A.     No. I didn't nudge her until after he  
8     told us to leave.

9           Q.     But when Officer Babusch boarded the  
10    train, you knew he was there for you guys, didn't  
11    you?

12          A.     No.

13          Q.     But you were the only passengers on the  
14    train, correct?

15          A.     Not on the entire train. In that car,  
16    yes.

17          Q.     In that car?

18          A.     Yes.

19          Q.     Why did you think that Officer Babusch was  
20    boarding the train?

21          A.     Because I saw him step onto the train  
22    steps.

23          MR. FITZPATRICK:   Objection.    Form,  
24    speculation.

1 THE WITNESS: I seen him walk onto the train.

2 BY MS. ATKINS:

3 Q. And again, you and Alex were the only ones  
4 in this particular railcar, correct?

5 A. Yes.

6 Q. Did Officer Babusch say anything as he was  
7 boarding this railcar?

8 A. No.

9 Q. Did Officer Babusch say anything as he  
10 walked down the aisle toward you?

11 A. Nothing at all.

12 Q. Did you say anything to Officer Babusch  
13 when he boarded the train?

14 A. Not a word.

15 Q. Did you say anything to Officer Babusch as  
16 he walked toward you down the aisle?

17 A. Not at all. I didn't even pay much  
18 attention to him.

19 Q. True that the officer kind of tapped you  
20 on your foot to get your attention?

21 A. Yes.

22 Q. It's your testimony that he didn't say a  
23 word to you before he tapped you on the foot?

24 A. Not at all.

1           Q.    You and Alex having any conversation  
2 before the officer tapped you on the foot?

3           A.    No.

4           Q.    You and Alex weren't yelling at one  
5 another?

6           A.    Nope. Like I said, she was falling asleep  
7 on my shoulder and I had my head like that.

8           Q.    So the officer taps you on your foot and  
9 tells you that you've got to get off of the train?

10          A.    Yes.

11          Q.    Is that the only thing he said to you?

12          A.    At that time, yes.

13          Q.    What did you do in response to him telling  
14 you to get off the train?

15          A.    I nudged Alex and told her that we have to  
16 leave.

17          Q.    You don't question the officer at all?

18          A.    No.

19          Q.    You weren't curious as to why you were  
20 getting kicked off the train?

21          A.    I asked him if he was serious and that was  
22 it; and he said, yes. That was it.

23          Q.    You didn't ask him why?

24          A.    No.

1 Q. Did Alex say anything to the officer?

2 A. She asked him why.

3 Q. And what did he say in response to her  
4 asking why?

5 A. He said, if I hear one more word out of  
6 you, I'm going to place both of you under arrest.

7 Q. I thought you testified earlier that that  
8 was said after you and Alex had come down the  
9 stairs and as you were exiting the train?

10 A. It was.

11 Q. I'm asking about when the officer taps you  
12 on the foot and tells you to get off the train,  
13 what did you say to him and he to you?

14 A. I asked him if he was serious; and he  
15 said, yes.

16 Q. And did Alex at that point say anything to  
17 the officer while you two were still on the upper  
18 level?

19 A. To the officer, no.

20 Q. Did she say anything to you?

21 A. Yes.

22 Q. What did she say to you?

23 A. Why? What's going on?

24 Q. Was she swearing?



1           A.     No.

2           Q.     If she testified that she was mother  
3     fucking and doing a whole bunch of other cussing,  
4     that's not your recollection?

5           A.     At the time when he told us to leave the  
6     train?

7           Q.     Yes.

8           A.     No, she did not.

9           Q.     So after you asked the officer if he was  
10    serious and he said, yes, did you and Alex then  
11    stand up from your seats?

12          A.     Yes.

13          Q.     And you made your way toward the  
14    stairwell?

15          A.     Down the stairs.

16          Q.     This is when you say you assisted Alex  
17    down the stairs?

18          A.     Well, I had my hand on her back.

19          Q.     Was she stumbling at all?

20          A.     No.

21          Q.     Was she saying anything to you as you were  
22    descending the stairs?

23          A.     Yes.

24          Q.     What was she saying?

1           A.    This is bullsh\*t.

2           Q.    Was she yelling?

3           A.    No, she wasn't yelling.

4           Q.    If she testified she was yelling, that's  
5 not your recollection?

6           A.    Not going down the stairs, no.

7           Q.    Did the two of you have to walk down --  
8 once you made it to the bottom of the stairwell  
9 inside the railcar, did the two of you have to walk  
10 down the aisle in between the seats to get off the  
11 seats?

12          A.    Just passed that gap between the seats and  
13 the door at the end of the car.

14          Q.    So bottom of the steps, you all were able  
15 to then just kind of turn, go to the vestibule, and  
16 down the stairs; is that correct?

17          A.    Uh-hum, yes.

18          Q.    When you made it down to the bottom of the  
19 stairs, was Officer Babusch there?

20          A.    He was behind us.

21          Q.    How did he get behind you while you were  
22 on the stairs?

23          A.    Because he was standing in the middle of  
24 the train car and the stairs are on the end, so we

1     were in front of him when he followed us behind.

2           Q.     And he was by himself?

3           A.     I believe so.

4           Q.     White, heavy set, blond hair officer, no  
5     glasses follows you and Alex as you're making your  
6     way off the train, correct?

7           A.     Yes.

8           Q.     At this point, was Alex yelling at the  
9     officer?

10          A.     Not at the officer.

11          Q.     Was she yelling at all?

12          A.     Yes.

13          Q.     What was she was yelling?

14          A.     I don't know why we're getting off this  
15     damn train; I don't know why we're getting kicked  
16     off.

17          Q.     Was she swearing?

18          A.     Most likely, yes.

19          Q.     I don't have virgin ears, so if you  
20     remember specifics, you can say them. I'd prefer  
21     you'd say them actually just so we have a clear  
22     record.

23                 Do you have any specific recollection of  
24     any specific word?

1           A.     Actual words used, I do not.

2           Q.     But it's your recollection that she was  
3     cussing?

4           A.     Yes.

5           Q.     She was yelling?

6           A.     Yes.

7           Q.     Was it at this point in time that  
8     officer -- that the officer said: If I hear one  
9     more word out of you, I'm arresting you?

10          A.     When we were going down the stairs to exit  
11     the train car itself, she asked something along the  
12     lines of, why are we being kicked off the train;  
13     and that's when Babusch said to both of us: If I  
14     hear one more word out of her, I'm going to arrest  
15     both of you.

16          Q.     Did you say anything in response to that  
17     statement?

18          A.     I did not.

19          Q.     Did Alex say anything in response to that  
20     statement?

21          A.     Yes, she did.

22          Q.     What did she say?

23          A.     She went pfffft (phonetic).

24          Q.     Did she tell him to fuck off?

1 A. No.

2 Q. Did she call him a pussy?

3 A. No.

4 Q. You guys make it downstairs?

5 A. Yes. We were on the ground level next to  
6 the yellow bubble track.

7 Q. Like the platform, that yellow bubbly  
8 stuff. It's called a tactile strip.

9 But you guys had made it down to the  
10 platform, correct?

11 A. Yes.

12 Q. Any other officers or Metra personnel on  
13 the platform after you exit the train?

14 A. I believe the Hispanic guy was waiting on  
15 the platform but further back behind the doors. So  
16 he would have been behind us when we exited the  
17 train.

18 Like when he exited the train to go to the  
19 exit, he would have been behind us with Babusch.

20 Q. Oh, okay.

21 A. So if you're facing the train car and you  
22 go on, the exit is on your left; and then the front  
23 car would be towards your right. He was on the  
24 right side.

1           Q.    Was the Hi spanic officer, was he on the  
2   right side toward the first car on the platform or  
3   inside the train?

4           A.    No.  He was on the platform itself.  He  
5   was on the concrete strip you walk on to go down  
6   the train aisles.

7           Q.    Closest to the station?

8           A.    No.  He was furthest away from the  
9   station.  We would have been closest to the station  
10   than him.

11          Q.    But at this point, you and Alex and  
12   Babusch are -- are you standing on the platform or  
13   are you starting to walk toward the station?

14          A.    We are walking towards the exit.

15          Q.    And is this that side street exit, that  
16   stairwell that goes down to the like the tunnel  
17   area?

18          A.    Yeah.  The tunnel to the escalators and  
19   the stairs and then you down into the street.

20          Q.    I got you.  So you wouldn't actually go  
21   back into the station but rather down that  
22   escalator?

23          A.    Well, because if you go into the station  
24   where the ticket booth, you can't leave.  It's just

1     that area.

2           Q.     Right.  Because it's all shut down?

3           A.     So you got two exits on the side.  And if  
4     you stand with your backs towards the train, we  
5     went to the exit to the right.  That's the one I'm  
6     talking about.

7           Q.     Just to make the record clear, I'll  
8     represent to you that that's Financial Place.  It's  
9     on the east edge of the station.  So it's Van Burn  
10    on the north, Financial on the east, Congress on  
11    the south, and then this side where Porky  
12    Salsa (phonetic) is.  I can't remember what the  
13    west side is but, it's just before Wells Street.

14          MR. FITZPATRICK:  Yeah, it's like -- Wells or  
15    something like that.

16          MS. ATKINS:  Yeah, Wells is there but -- yeah.

17                 Counsel, can we agree that that side that  
18    he's talking about is the Financial Place side?  
19    It's the eastern edge of the LaSalle Street station  
20    house with the escalator that goes down to the  
21    ground level.

22          THE WITNESS:  No.  I said if you're facing the  
23    ticket booth itself, it'd be the right side.

24          MS. ATKINS:  It'd be the right side, yeah.

1 Any dispute on that?

2 MR. FITZPATRICK: You have to ask him. I don't  
3 know.

4 MS. ATKINS: I'm asking if you can agree on the  
5 record that that would be the eastern side of the  
6 station house?

7 MR. FITZPATRICK: I don't know what his  
8 testimony is. That's for him to answer. I,  
9 basically, agree with the way you described the map  
10 of that particular block. I'd have to go over  
11 there and look, but I think it is Van Buren on the  
12 north. I think it's Congress on the south where  
13 you come in, and there's some kind of little mall  
14 or something on the other side where the escalator  
15 comes down, the el tracks stop. We can look at a  
16 map.

17 THE WITNESS: I have no idea.

18 MS. ATKINS: Whatever.

19 BY MS. ATKINS:

20 Q. So you guys are walking toward this  
21 escalator that you've described, like in that  
22 general direction?

23 A. Yes.

24 Q. And the Hispanic officer is behind you



1 all?

2 A. Yes. Babusch and the Hispanic officer are  
3 both behind us.

4 Q. So you and Alex are walking ahead of them,  
5 correct?

6 A. Yes.

7 Q. And are you holding onto Alex at all at  
8 this point?

9 A. Yeah. I'm trying to like say, it's fine;  
10 we'll just catch the next one in the morning; just  
11 relax and we'll leave. And she was upset that they  
12 were kicking us off the train for no apparent  
13 reason.

14 Q. And she was still yelling, correct?

15 A. Not after I was trying to calm her down.  
16 After that pfffft, that's when Officer Babusch  
17 stepped in.

18 Q. If she's testified, if Alex has testified  
19 that she continued to yell and swear at the  
20 officers, that's not your recollection?

21 A. Like I said, she puffed at him; and as she  
22 was walking down and out, she was saying this is  
23 bullshit; I don't know why we're getting kicked  
24 off, blah, blah, blah.

1 I can't remember the exact speech but --

2 Q. But you kept on telling her to calm down?

3 A. -- of the conversation.

4 Q. And you kept on telling her to calm down,  
5 correct?

6 A. I told her one time.

7 Q. Just once?

8 A. Just before she went pfffft.

9 Q. If she testified that you had repeatedly  
10 told her to calm doesn't, that's not your  
11 recollection?

12 A. I don't believe so. I said I can't  
13 remember exactly --

14 MR. FITZPATRICK: Objection.

15 BY MS. ATKINS:

16 Q. So she was saying, this is bullshit; I  
17 don't understand why we're being kicked off the  
18 train for no reason, and then she pffft'd or like  
19 huffed at the officer.

20 What happened next?

21 A. The next thing I know, Babusch pulled her  
22 from the back, shoulder, neck area. He pulled her  
23 backwards and she hit the ground.

24 Q. When she was pulled backwards, where did

1     Officer Babusch make contact with her?

2           A.     From her -- I don't know what it's  
3     called -- the collar bone area, and then he threw  
4     her down. He literally ripped her from my hand  
5     because I had my arm around her.

6           He had enough force to pull her past my  
7     arm and into the ground.

8           Q.     So you and Alex are walking ahead of the  
9     two police officers, you have your right arm around  
10    her?

11          A.     I believe so, yes.

12          Q.     Did you have it around her waist, her  
13    shoulders?

14          A.     Around the middle of her back.

15          Q.     Did you actually have your right hand  
16    around her waist or were you touching the lower  
17    part of her back?

18          A.     My elbow would be lined up with her spine.

19          Q.     It was while you were walking, could you  
20    see the officers behind you?

21          A.     No, I didn't see them. I was focused on  
22    just trying to leave with no incident.

23          Q.     You were just trying to get out of there?

24          A.     Yeah.

1           Q.     Alex is saying this is bullshi t, I don' t  
2     understand why we' re getting pulled off the train,  
3     she huffs or hisses at him, whatever the pfffft --  
4     I think that' s P-F-F-F-T.

5                     The next thing you know she' s ripped out  
6     of your arm?

7           A.     Yes.

8           Q.     Did you actual ly see Offi cer Babusch make  
9     physical contact with hi s hand on Alex' s right  
10    shoul der?

11          A.     Yes, I di d.

12          Q.     Explain to me exactly what you saw.

13          A.     I saw out of the corner of my eye when  
14    I was trying to talk to Alex, I could see Babusch  
15    after she puffed at him, came up and he just  
16    grabbed her and he was able to rip her from my arm.

17                     And she went to break her fall. She  
18    landed face first. She tried to get up, and then  
19    that' s when Babusch smashed her face in the ground  
20    agai n.

21          Q.     When you said that Alex pfffft' d or huffed  
22    or hissed, whatever it was, the noise that she made  
23    to him, that you were trying to talk to her when  
24    thi s happened, correct?

1           A.     Yes.

2           Q.     What you were saying to her?

3           A.     I was saying, it's going to be fine; we'll  
4 just catch the next train out in the morning. And  
5 that's it.

6           Q.     You were trying to settle her down?

7           MR. FITZPATRICK:  Objection.  Mischaracterizes  
8 his testimony, form.

9           BY MS. ATKINS:

10          Q.     Were you trying to settle her down?

11          A.     Yes.

12          Q.     So you see the officer grab her from  
13 behind, pull her back, correct?

14          A.     Yes.

15          Q.     And you said that she tried to break her  
16 fall with her arms?

17          A.     Yeah.  She tried to brace herself because  
18 Babusch threw her down to the ground.

19          Q.     If he pulled her from behind and was  
20 pulling her backwards, explain to me how she was  
21 breaking her fall with her arms in front of her?

22          A.     She went to fall and she put her arms out  
23 in front of her.

24          Q.     So she physically spun around?

1           A.     Well, when you fall backwards, you're able  
2     to put your arm behind you to brace your fall.

3           Q.     So she was falling backwards?

4           A.     Yes, because Babusch was behind us and he  
5     literally pulled her backwards.

6           Q.     So you personally observed Alex falling  
7     backwards, correct?

8           A.     I personally observed Babusch grab Alex by  
9     the shoulder and rip her from my arm and threw her  
10    down to the ground.

11          Q.     You're describing for me how she fell down  
12    to the ground.

13                 Describe it minute detail?

14          MR. FITZPATRICK:  Objection.  Form.

15          THE WITNESS:  I don't know how much minute you  
16    want to get.  She was ripped out of my arms and she  
17    went to brace her fall.  She reached backwards to  
18    brace her fall, and that's when Babusch smashed her  
19    face down again when she tried to get up.

20    BY MS. ATKINS:

21          Q.     So you're demonstrating for me as you're  
22    testifying.  You're putting your left arm behind  
23    your back, correct?

24          A.     Well, I'm not sure which arm she used,

1 but, yeah, she went. She was pulled and she went  
2 to turn and brace her fall and then she went to get  
3 up after she was on the ground.

4 Babusch took her and took her by the base  
5 of her neck and smashed her face into the concrete.

6 Q. So when the officer grabbed her from  
7 behind and she fell to the ground and she broke her  
8 fall by putting her arms behind her --

9 A. She tried to break her fall.

10 Q. -- what part the Alex' body made contact  
11 with the ground?

12 A. The side of her face and her shoulder.

13 Q. And this was when she was pulled from  
14 behind?

15 A. Yes.

16 Q. And the side of her face and her shoulder  
17 struck the ground?

18 A. Were one of the first things that hit the  
19 ground, yes.

20 Q. But you said that she was putting her arms  
21 out to break her fall?

22 A. Yes.

23 Q. But her shoulder and her face hit first?

24 A. The arm that she put out to brace herself

1 and the side of her face.

2 Q. And you keep indicating your left side, is  
3 it your recollection that her left side struck the  
4 ground?

5 A. I guess. I don't remember what side hit  
6 the ground first. I'm just using this as an  
7 example. That's all.

8 Q. When the officer grabbed Alex from behind,  
9 did you say anything?

10 A. No.

11 Q. When Alex was falling to the ground  
12 backwards, did you say anything?

13 A. No.

14 Q. When Alex -- whichever side of her body it  
15 was, when her shoulder and face hit the ground, did  
16 you say anything?

17 A. I was like, what the fuck.

18 Q. Did anyone say anything to you?

19 A. Not to me, no.

20 Q. Did Alex say anything to you?

21 A. No. She was -- screamed. That was it.

22 Q. Did anyone -- strike that.

23 Did any of the two officers say anything  
24 to Alex as she was falling to the ground?



1           A.     Yes.

2           Q.     Who said what and what did they say?

3           A.     Babusch; and he said, I told you to be  
4 quiet.

5           Q.     And he said this to Alex after she struck  
6 the ground?

7           A.     After she was on the ground and after he  
8 pushed her face back into the ground, she tried to  
9 get up.

10          Q.     So Alex has fallen to the ground, her  
11 shoulder and the side of her face hit the platform,  
12 correct?

13          A.     Hit the concrete, yes.

14          Q.     And she then attempted to get up?

15          A.     She tried to get up, yeah. She tried to  
16 pick up herself back up and Babusch grabbed her by  
17 the back of the neck and pushed her face down into  
18 the ground again.

19          Q.     And was she saying anything to him while  
20 he was pushing her face into the ground?

21          A.     Yeah, she screamed.

22          Q.     What did she say?

23          A.     She screamed.

24          Q.     She screamed?

1           A.     Yes.

2           Q.     Did he say anything to her?

3           A.     Yeah. I told you to be quiet.

4           Q.     Did he say anything else to her at that  
5 time?

6           A.     At that time particular time, no.

7           Q.     Did the other officer present say  
8 anything?

9           A.     He didn't say anything at all.

10          Q.     Did you say anything further?

11          A.     Not at that time, no.

12          Q.     After Alex was taken down to the ground,  
13 did the officer secure her wrists or her legs?

14          A.     After he smashed her face into the ground  
15 the second time, he put his knee in the middle of  
16 her neck like underneath the base of her neck, and  
17 grabbed her arms and I believe she was cuffed.

18          Q.     Was Alex screaming?

19          A.     Yes.

20          Q.     Was she swearing?

21          A.     No, she was screaming.

22          Q.     Was she spitting?

23          A.     No.

24          Q.     Was she trying to wrestle her wrists away?

1           A.     No.

2           Q.     Was she kicking?

3           A.     She was trying to -- you know, what the  
4     hell is going on? That was it and she was  
5     flying (phonetic) around.

6           Q.     So she was flailing around?

7           A.     Yeah, she didn't know what was happening.  
8     All she knew at that time was that she just got  
9     fucked up.

10          Q.     How do you know that she knew at that  
11     time --

12          A.     Well, wouldn't you if you got smashed into  
13     the ground?

14          Q.     I just need to know what you know.

15          A.     Yeah.

16          Q.     So she's flailing around on the ground  
17     screaming?

18          MR. FITZPATRICK:   Objection.   Mischaracterizes.

19          BY MS. ATKINS:

20          Q.     Didn't you just testify she was flailing?

21          MR. FITZPATRICK:   I thought he said she was  
22     flying.

23          BY MS. ATKINS:

24          Q.     Did you say flailing?

1           A.     Yes, she was.

2           Q.     So she's on the ground flailing and  
3 screaming, what are you doing?

4           A.     I stood there and I looked at him and  
5 I seen Babusch put his knee in the middle of her  
6 neck, cuff her, and then that's when his partner,  
7 the Hispanic guy, came in and he kind of held me  
8 back and that was it.

9                   The Hispanic officer told me not to worry  
10 about it.

11          Q.     So you've got the larger white male, blond  
12 officer is now on Alex' back?

13          A.     He was on top of Alex, cuffing her, and  
14 his partner, whoever was with him.

15          Q.     The Hispanic guy?

16          A.     No, there was three of them. And then the  
17 Mexican guy was next to me and he was telling me  
18 not to worry about it; and I was saying, dude.

19          Q.     So you say there were three of them, three  
20 officers?

21          A.     There were three officers.

22          Q.     Where did the third officer come from?

23          A.     I have no idea.

24          Q.     I've only heard about the blond guy and

1 the Hi spani c guy.

2 A. I don' t know who the other officer was.

3 Q. When did you first see this other officer?

4 A. When Alex hit the ground.

5 Q. Did this other officer touch Alex?

6 A. Just to help Babusch cuff her.

7 Q. Can you give me a physical description for  
8 the third officer?

9 A. I couldn' t. I don' t remember what he  
10 looked like.

11 Q. Is it a male, white?

12 A. I believe it was male, but that's all  
13 I could really say.

14 Q. Can' t give me color of his hair?

15 A. No.

16 Q. Was he in uniform?

17 A. Yes, they were all in uniform.

18 Q. So there were three of them, the blond guy  
19 that took her down --

20 A. The Hi spani c.

21 Q. The Hi spani c guy and now the third guy --

22 A. And then the guy that helped Babusch up --  
23 all the third guy did was help Babusch cuff her and  
24 that was it.

1           Q.    You didn't have any conversation with the  
2   third officer?

3           A.    The third officer came in after Babusch  
4   shoved his knee into the back of her neck.

5           Q.    But you say that the only thing this third  
6   officer did was help handcuff her, correct?

7           A.    Correct.

8           Q.    But again you can't give me a physical  
9   description?

10          A.    No.

11          Q.    So the Hispanic or Mexican cop is telling  
12   you that everything is going to be okay?

13          A.    He said, don't worry about it.

14          Q.    Had you said anything to him before he  
15   said don't worry about it?

16          A.    No.

17          Q.    After Alex was handcuffed, what was she  
18   doing?

19          A.    She was screaming and trying to see what  
20   was going on around her.

21          Q.    Were you saying anything to her?

22          A.    To Alex, no.

23          Q.    Were you saying anything to any of the  
24   officers?

1           A.    I told the Hi spanic officer, what the  
2   fuck.

3           Q.    Is that when he said don't worry about it?

4           A.    That was after he said don't worry about  
5   it.

6           Q.    Did you have any other conversation with  
7   any other officer on the scene?

8           A.    Yes, I did.

9           Q.    Tell me about that.

10          A.    When Babusch went to pick Alex up after  
11   she was cuffed, he threw her up by her elbow, and  
12   she went to roll over and that's when he smashed  
13   her into the face a third time -- or her face into  
14   the concrete a third time.

15               And then I pointed to the officer because  
16   when Alex was picked up, I was able to -- she was  
17   facing like we are now, and I seen blood just  
18   pouring out of her nose, pouring out of her mouth  
19   and there was blood on the sidewalk.

20               And I told the officers, look at the  
21   fucking blood; how the hell are you going to  
22   fucking stand there and let that shit happen? And  
23   that's all he would say is -- he hold me back by my  
24   chest and told me not to worry about it.

1 Q. That was the Hi spani c offi cer?

2 A. That was the Hi spani c offi cer.

3 Q. When Alex went down to the ground the  
4 first time when she hi t her shoulder and the side  
5 of her face, di d you see any physi cal i njury,  
6 obvi ous physi cal i njury, to her face at that time?

7 A. Yes. Scrapes and marks on the side of her  
8 face and her collar bone area.

9 Q. And then you say the blond offi cer took  
10 her down for the second time?

11 A. The second time is when -- right after the  
12 first time.

13 Q. Di d you see any addi ti onal obvi ous  
14 physi cal i njury to her at that point?

15 A. Yes.

16 Q. Descri be that for me.

17 A. After the second time he smashed her face  
18 in the concrete, I seen her lip was ripped open,  
19 her mouth was covered in blood, and blood out of  
20 her nose. She was screami ng. She' s cryi ng.

21 Q. It' s a lot of blood?

22 A. Yes.

23 Q. You said her lip was ripped open?

24 A. She had marks on her lip. It wasn' t



1     ripped in half, but it was cut open.

2           Q.     How about the third time her face was  
3     smashed into the ground?

4           A.     He turned her away from me and put her  
5     face into the ground and then he kept her there.

6           Q.     I thought you said that that's when she  
7     was now lifted up and you and she were --

8           A.     -- that was after the second time --

9           THE COURT REPORTER:   Wait, wait, wait.

10          BY MS. ATKINS:

11           Q.     I thought that you had said that it was  
12     after the third time that you and she were now  
13     facing one another --

14           A.     No.

15           MR. FITZPATRICK:   Objection.   Form.   Is that a  
16     question?

17           MS. ATKINS:   Yes, it's part of the question  
18     that was interrupted.

19           MR. FITZPATRICK:   Can you repeat back the  
20     question, please.

21   (WHEREUPON, the record was  
22   read as requested.)

23           MR. FITZPATRICK:   I object to the form of the  
24     question.

1 THE WITNESS: No. The first time is when she  
2 was ripped out of my arms; the second time is when  
3 he smashed her face back in, and then he held her  
4 there and cuffed her; and then he picked her up  
5 after he cuffed her by her elbow and that's when I  
6 seen her face.

7 And then that's when I told the Hispanic  
8 officer, what the fuck; look at the fucking blood;  
9 how you going to let this happen? And then as he  
10 picked her up -- when I seen her as he was picking  
11 her up from the second fall, the second smash, he  
12 smashed her again a third time but further away  
13 from me.

14 So he turned her body so her feet would be  
15 by me and her head would be furthest way from me  
16 and he smashed her head again.

17 BY MS. ATKINS:

18 Q. So it's your testimony that after this  
19 officer smashed Alex' face into the ground when she  
20 was handcuffed, that he then attempted to lift her  
21 from the ground by her elbow, correct?

22 A. Correct.

23 Q. And he just suddenly smashed her face back  
24 down into the ground?

1           A.     Yeah.

2           MR. FITZPATRICK:   Objection.   Form,  
3   mischaracterizes his testimony.

4   BY MS. ATKINS:

5           Q.     The answer is yes?

6           A.     Yes.

7           Q.     It's not a mischaracterization of your  
8   testimony, correct? That's what you're testifying  
9   to?

10          A.     He smashed her face into the ground when  
11   he picked her up, yes.

12          Q.     I believe you, specifically, stated that  
13   after he attempted lifting her up by her elbow  
14   prior to smashing her down on the ground for the  
15   third time, he actually turned her away from you so  
16   she was further away from you and then down onto  
17   the ground?

18          A.     Yes.   When he picked her up, it was  
19   Babusch holding Alex, and it was me and the  
20   Hispanic guy.   So to me, my back would be against  
21   the train, like facing the train.

22                 So I saw her face just like me and you are  
23   looking, and then he turned her away from me and  
24   smashed her for a third time.

1           Q.     So did -- the blond officer and Alex are  
2     in front of you, correct?

3           A.     Correct.

4           Q.     And Hispanic officer, I believe, you  
5     indicated was toward your left, correct?

6           A.     Yes, he was standing to the side of me.

7           Q.     Had you seen the third officer yet?

8           A.     Not since he cuffed Alex. I was more  
9     focused on Babusch and Alex at that time.

10          MR. FITZPATRICK: When you say blond officer,  
11     are you using the blond officer and Babusch  
12     interchangeably?

13          MS. ATKINS: Yeah. That's who he's talking  
14     about is the officer who threw her down to the  
15     ground, handcuffed her, correct?

16          THE WITNESS: It was Babusch.

17     BY MS. ATKINS:

18          Q.     After she's on the ground for the third  
19     time, what's the next thing that happened?

20          A.     She was screaming and yelling help.  
21     Screaming, screaming, and Babusch was on his radio  
22     and he wouldn't let her move. He had his knee in  
23     the back of her neck. He had his arm down on her  
24     forearm of her elbow.

1           She kept trying to roll over and he just  
2 kept yanking her back and just wouldn't let her do  
3 anything.

4           Q.    So even after the third time down, she's  
5 still trying to roll over, correct?

6           A.    Yes.

7           Q.    And she's handcuffed, correct?

8           A.    She's handcuffed and just got the shit  
9 kicked out of her so she's trying to realize what  
10 happened.

11          Q.    Did he strike her in the face with his  
12 fist?

13          A.    He took his hand and smashed her in the  
14 concrete.

15          Q.    That's not my question.

16                Did he punch her in the face?

17          A.    He never punched her in the face, no.

18          Q.    When she was still trying to roll over  
19 after the third time being taken down, was she  
20 still screaming?

21          A.    She was yelling for help and she was  
22 screaming, yes.

23          Q.    Were you saying anything to her at this  
24 point?

1           A.     To Alex, no.

2           Q.     Were you still saying to the other  
3 officers, look at the blood; how can you let this  
4 happen?

5           A.     Yes.

6           Q.     Were you present when -- strike that.  
7                   Did you hear any officer call for an  
8 ambulance?

9           A.     I don't know what they were radioing over  
10 on the walkie-talkies.

11          Q.     Were you present when the ambulance  
12 appeared?

13          A.     Yes.

14          Q.     Were you present when the paramedics came  
15 to Alex' side?

16          A.     Yes, I was.

17          Q.     Were you present when the paramedics  
18 attempted to place Alex onto a gurney or a chair to  
19 transport her?

20          A.     Yes, I was.

21          Q.     Were you present when Alex was spitting at  
22 the paramedics?

23          A.     She never spit at the paramedics.

24          Q.     Were you present when she was yelling at

1 the paramedics?

2 A. She was never yelling. She was screaming  
3 and yelling for help.

4 Q. Were you present when Alex was swearing at  
5 the paramedics?

6 A. Like I said before, she wasn't saying  
7 anything to the paramedics. She was yelling for  
8 help and screaming.

9 Q. While maybe not directed at the  
10 paramedics, Alex was continuing to scream and yell,  
11 correct?

12 A. She screamed and yelled for help, yes.

13 Q. Even after the paramedics arrived,  
14 correct?

15 A. Yes.

16 Q. Did you accompany Alex in the ambulance?

17 A. I was not allowed to.

18 Q. Did you see Alex get loaded into the  
19 ambulance?

20 A. Yes, I was.

21 Q. Who prevented you from riding in the  
22 ambulance?

23 A. A black female Metra officer. She said  
24 she was a sergeant. I don't know. I can't

1     remember her name.    She was about my height.    She  
2     had dark, short hair.    She told me I wasn't allowed  
3     to go there and she allowed Babusch to go in the  
4     ambulance.

5                   And that's when I said, I don't want her  
6     in there with that guy.   And she said to meet her  
7     at the hospital.

8           Q.    You're saying that the black female  
9     sergeant allowed Babusch into the ambulance with  
10    Alex?

11          A.    Yes.

12          Q.    You saw Alex get loaded into the  
13    ambulance?

14          A.    Yes, I did.

15          Q.    Did you see Alex placed in restraints  
16    before getting into the ambulance?

17          A.    I seen her get placed into a stretcher.

18          Q.    Did you see Alex fight her way out of the  
19    stretcher?

20          A.    No. I don't think she ever fought her way  
21    out of the stretcher.

22          Q.    So if the paramedics' report says that she  
23    fought her way out the stretcher, that would be  
24    inaccurate?



1 MR. FITZPATRICK: Objection. Form --

2 THE WITNESS: Like I said, I have no idea.

3 BY MS. ATKINS:

4 Q. Did you see Alex placed into a chair?

5 A. I believe they placed her into a chair  
6 when they were taking her out of the station or  
7 walking down the stairs.

8 Q. Did you ask where the ambulance was taking  
9 Alex?

10 A. Yes.

11 Q. What were you told?

12 A. I believe it was North something hospital.

13 Q. Northwestern?

14 A. Yeah, somewhere in the City.

15 Q. Did you then go to Northwestern to meet up  
16 with Alex?

17 A. Yes, I did.

18 Q. How did you get to Northwestern?

19 A. Took a taxi.

20 Q. Were you by yourself?

21 A. Yes.

22 Q. Did you call anyone from when Alex was  
23 first taken down and handcuffed to when you arrived  
24 at Northwestern Hospital, did you call anyone?

1           A.     Yes, I did.

2           Q.     Who did you call?

3           A.     I told my parents they needed to come down  
4 here right away.

5           Q.     Did you call your parents' landline or  
6 cell number?

7           A.     Cell phone.

8           Q.     What's the cell number?

9           A.     I don't know off the top of my head. It  
10 was my dad's old phone number.

11          Q.     You called from your cell phone?

12          A.     Yes.

13          Q.     Who was your cell phone provider in May of  
14 2012?

15          A.     I believe it was AT&T.

16          Q.     Do you still have that phone?

17          A.     Yes, but I'm not sure if it's the same  
18 number.

19          Q.     What's your current number?

20          A.     (815) 715-8681.

21          Q.     You said you called your father's number?

22          A.     Yes.

23          Q.     What's your father's name?

24          A.     Ron.

1 Q. Ronald?

2 A. Yeah.

3 Q. Any middle initial?

4 A. G.

5 Q. Same last name?

6 A. Yes.

7 Q. So you called your parents on your  
8 father's cell and told them that they need to come  
9 downtown?

10 A. Yes. I told them they needed to come down  
11 here right away; I'm at the hospital.

12 Q. And did they tell you they would come  
13 down?

14 A. Yes, they came.

15 Q. When you arrived at Northwestern Hospital,  
16 were you able to see Alex?

17 A. No, I was not. They said that she was  
18 with the Metra police, the Chicago police, and  
19 doctors. And they told me that they would come and  
20 get me when I was able to see her.

21 Q. Did they, in fact, come and get you so you  
22 could see her?

23 A. Yes, they eventually came and got me.

24 Q. How long do you think you were waiting

1 before you were able to see her?

2 A. It felt like forever. I don't know. A  
3 good two hours.

4 Q. Had your parents arrived during that time?

5 A. No.

6 Q. When did your parents arrive?

7 A. Right around the time she woke up.

8 Q. Where were you taken to first see Alex at  
9 Northwestern?

10 A. Into her hospital room. Well, I walked to  
11 the front doors and they told me this is where  
12 she's at and you can't go and see her right now  
13 until it's cleared.

14 Q. When you first arrived at Northwestern,  
15 did you go to the emergency department?

16 A. I believe those were the doors that  
17 I walked through, yes.

18 Q. So it's fair to say you did not see her  
19 when she was in the emergency department?

20 A. No, I did not.

21 Q. You first saw her when she was in a room?

22 A. Yes, when she was in her room. They  
23 wouldn't let me see her.

24 Q. Was that a private room?

1           A.     Yeah, she was in a private room.

2           Q.     When you first saw Alex in the private  
3 room, I think, you said it was probably a couple  
4 hours after you arrived?

5           A.     At least two hours, yes.

6           Q.     When you first saw Alex in the private  
7 room, tell me what you saw.

8           A.     She was laying in the bed hooked up to IVs  
9 and monitors and she was unconscious.

10          Q.     Did you have any conversation with any  
11 medical personnel about her condition?

12          A.     No, no one would talk to me. They said  
13 that they were waiting for her to wake up to  
14 evaluate her to see if she was okay to leave.

15          Q.     Did any of the medical personnel ask you  
16 if you were her husband?

17          A.     Boyfriend.

18          Q.     Did they ask you, specifically, if you  
19 were her boyfriend?

20          A.     Yes, because she was yelling for her  
21 boyfriend in the hospital.

22          Q.     She was screaming, I need my boyfriend?

23          A.     Yes.

24          Q.     When you saw Alex --

1           A.    I believe she called me her fiancée  
2 actually.

3           Q.    Were you the two, in fact, engaged?

4           A.    No.

5           Q.    When you first saw Alex and she was in  
6 this private room, you said she was unconscious,  
7 correct?

8           A.    Yes, she was sleeping.

9           Q.    She was hooked up to an IV, correct?

10          A.    I believe so. She was hooked up to a  
11 bunch of different things. There was monitors and  
12 they had the stickers on her.

13          Q.    Did you see that she was in four-point  
14 restraints?

15          MR. FITZPATRICK: Objection --

16          THE WITNESS: No, she was not in four-point  
17 restraints. She was able to move her arms.

18          BY MS. ATKINS:

19          Q.    Were you with Alex the whole time she was  
20 at Northwestern Hospital?

21          A.    I sure was.

22          Q.    During that time, was she ever in  
23 four-point restraints?

24          A.    Never.

1 Q. So if she testified that she was in  
2 four-point restraints for 18 hours, she would be  
3 incorrect?

4 A. Unless it was before I was there, yes,  
5 I guess.

6 Q. How long was she there?

7 A. She was there a long time. We didn't  
8 leave until 11:00, 12:00 o'clock the next day.

9 Q. She was there about 18 hours?

10 A. Well, from the time --

11 MR. FITZPATRICK: Objection. Leading, form.

12 THE WITNESS: From the time, she got taken away  
13 from like -- I don't know what time she got taken  
14 away. 1:00 in the morning or whatever until  
15 12:00 in the afternoon noon that day is when she  
16 got...

17 BY MS. ATKINS:

18 Q. But you're testifying she was never in  
19 four-point restraints?

20 MR. FITZPATRICK: Objection.

21 THE WITNESS: Yeah.

22 BY MS. ATKINS:

23 Q. And you were with her the entire time?

24 A. The whole time she was in the hospital

1     because I was able to hold her hand and everything.  
2     I took pictures of her.

3           Q.     Were you present when Alex was told what  
4     her blood alcohol level was?

5           A.     No, I was not.

6           Q.     Were you ever told what her blood alcohol  
7     level was?

8           A.     No, I was not.

9           Q.     You and she never discussed it?

10          A.     She got the medical report, but me and her  
11     really couldn't read them.

12          Q.     Were you ever told that her blood alcohol  
13     level was a .277?

14          A.     I was never told anything.

15          Q.     You testified earlier that you're familiar  
16     with .08, correct?

17          MR. FITZPATRICK:  Objection.  Form,  
18     mischaracterizes testimony.

19          THE WITNESS:  Breathalyzer, yes.

20          BY MS. ATKINS:

21          Q.     And I believe you testified that even one  
22     drink with Alex' weight could send her over the  
23     legal limit?

24          A.     To drive, yes.



1 Q. But you can't tell how many alcoholic  
2 drinks she consumed on May 8th between 2:30 in the  
3 afternoon and 12:30 in the morning on May 9th?

4 MR. FITZPATRICK: Objection. Asked and  
5 answered.

6 THE WITNESS: I have no idea.

7 BY MS. ATKINS:

8 Q. Between 2:30 in the afternoon on May 8th  
9 and 12:30 a.m. on May 9th, did Alex consume any  
10 opiates?

11 A. No.

12 Q. Did she ever tell you she tested positive  
13 for opiates?

14 A. No.

15 Q. You know Alex to take drugs of any kind?

16 A. Not at all.

17 Q. I understand in the summer of 2012 that  
18 Alex was arrested for a domestic disturbance; are  
19 you familiar with that?

20 A. I believe so.

21 Q. In fact, you were the victim of that  
22 domestic disturbance?

23 A. Yes.

24 Q. Did she cause you any physical harm?

1 MR. FITZPATRICK: Object to any questioning  
2 relating to any of these matters that would be  
3 inadmissible, irrelevant, and excluded under the  
4 rules, including Rule 403 and 404.

5 THE WITNESS: I was never hurt in any of the  
6 incidents.

7 BY MS. ATKINS:

8 Q. The incident for which Alex is suing now  
9 occurred very early he morning of May 9th 2012.

10 You testified that you were with her until  
11 she was released from Northwestern Hospital,  
12 correct?

13 A. Yes, I was.

14 Q. Best of your recollection, that was  
15 somewhere around 12:00 noon on the 9th?

16 A. Yes.

17 Q. You said that you took photographs of her,  
18 correct?

19 A. Yes.

20 Q. Describe for me Alex' physical injuries  
21 that you personally observed at Northwestern.

22 A. Bruises on her neck, shoulder, missing two  
23 teeth. Marks all up and down her arms, huge  
24 bruises and marks on her legs. I believe there was

1 a black eye. There were cuts on the side of her  
2 face.

3 Just all -- she had a huge bruise on her  
4 side I believe or maybe it was her shoulder. She  
5 was pretty bad.

6 Q. Two missing front teeth?

7 A. One was gone and the other one was  
8 chipped. It was pretty much gone. It was less  
9 than half the tooth left.

10 Q. When you indicated one was gone, you  
11 gestured towards your two front teeth.

12 Was it one of her large front teeth that  
13 was gone?

14 A. It was her large front tooth and then the  
15 tooth next to it.

16 Q. So the large front tooth was gone?

17 A. Yeah, there was that much left of it.

18 Q. Like a millimeter, a nub?

19 A. Pretty much. It came to a sharp point.

20 Q. The one tooth next to the large tooth that  
21 was missing, you said that was mostly gone, too?

22 A. Yeah. It was cut clean in half.

23 Q. You and Alex continued to date until  
24 October of 2013, approximately?

1           A.     Yes.

2           Q.     I think you said Alex moved in with you --  
3     what month of 2012?

4           A.     It was in 2013. I don't remember.

5           Q.     After Alex was released from Northwestern,  
6     did she seek any additional medical care and  
7     treatment for her injuries?

8           A.     Yeah, she went to get her teeth fixed.

9           Q.     When did she do that?

10          A.     It took her awhile to save the money, but  
11     she got her x-rays done and all that stuff and then  
12     she had to pay for it all.

13          Q.     When did she get her x-rays done?

14          A.     I'm not sure. I can't remember. It  
15     wasn't too long after the whole incident because --  
16     she was embarrassed because of her missing teeth.

17                 So she wanted to get it done as fast as  
18     she could. So she got them done. I know what she  
19     needed. She needed a root canal. I don't know  
20     what they call it, porcelain teeth or something.

21          Q.     Like a veneer or something?

22          A.     Sure. It took her awhile to save up the  
23     money and she finally got it all done.

24          Q.     When do you think she got it done?

1 A. I'm not sure. A few months after.

2 Q. Maybe November?

3 A. More like January or February maybe.

4 Q. Of 2013?

5 A. This happened in 2012?

6 Q. Yeah.

7 A. So, yeah, 2013.

8 Q. So she went around with a missing tooth  
9 and a tooth cut in half for --

10 A. A long time.

11 Q. For over seven months?

12 A. Yes.

13 Q. Your parents arrived at the hospital?

14 A. Yes.

15 Q. What, if anything, did they do while at  
16 the hospital?

17 A. They asked me if everything was fine; if  
18 I was okay; if she was okay. And I told my dad  
19 that she was clear to leave so we left.

20 Q. So your parents got there before she was  
21 discharged?

22 A. Right when she got discharged, maybe a few  
23 minutes before.

24 Q. So you called them -- correct me if I'm

1     wrong -- I think you testified that you called your  
2     parents on the way to Northwestern while you were  
3     in the cab, correct?

4           A.     Yes.

5           Q.     Maybe around 1:30 in the morning?

6           A.     I'm guessing, yeah.

7           Q.     The train had not taken off yet when all  
8     this happened, right?

9           A.     The train was gone. After everything was  
10    over, it was already gone. The train left when she  
11    was getting taken down the steps of the train dock.

12          Q.     Oh, after -- by the ambulance personnel?

13          A.     The train was pulling away when they were  
14    carrying her down the stairs to go onto the street.

15          Q.     The ambulance personnel?

16          A.     It was -- I believe -- no. Actually, I  
17    believe it was Metra police and medics were taking  
18    her.

19          Q.     Both?

20          A.     Well, they were all in a big circle around  
21    her.

22          Q.     I was just trying to make it clear for the  
23    record that it wasn't coming down the stairs inside  
24    the train when the train was leaving?

1           A.     No. The train pulled out when she was  
2     getting taken away.

3           Q.     But your parents did not come to the  
4     hospital until just before noon when she was  
5     discharged; is that your recollection?

6           A.     Yeah. Like I said, I don't remember when  
7     she was discharged but yeah.

8           Q.     You and Ms. Rikas stopped seeing each other  
9     stopped dating in October 2013?

10          A.     Yes.

11          Q.     October 19th of 2013, you were arrested  
12     for domestic battery?

13          A.     Yes.

14          Q.     And Ms. Rikas was the victim?

15          A.     Yes.

16          Q.     Prior to October 19th, 2013, had you and  
17     Ms. Rikas engaged in any physical altercation with  
18     one another?

19          A.     No, we have not. I don't wish to talk  
20     about that case you're talking against me --

21               THE COURT REPORTER: I'm sorry. What was that?

22               THE WITNESS: What did you ask me again?

23     BY MS. ATKINS:

24          Q.     I asked you prior to October 19th, 2013,

1     you and Ms. Rikas, if you'd been engaged in a  
2     physical altercation?

3             A.     I said, no, I have not. And do not wish  
4     to talk about the charges against me.

5             Q.     You testified earlier that in the summer  
6     of 2012 Ms. Rikas was arrested for a domestic  
7     incident in which you were the victim, correct?

8             A.     Yes.

9             Q.     That would have been a physical  
10    altercation, correct?

11            A.     No. Nobody was hurt.

12            Q.     That's not my question.

13                    Did you and she hit one another?

14            A.     No, we did not.

15            Q.     Did she hit you?

16            A.     No.

17            Q.     Did she strike you with any object?

18            A.     No.

19            Q.     Did you strike her with any object?

20            A.     No.

21            Q.     If she was arrested for a domestic  
22    disturbance and you were the victim, what was the  
23    basis for the charge?

24            A.     I didn't want to press charges but because



1 one of the neighbors called the police, that's why  
2 they took her away.

3 Q. Are you telling me that there was no  
4 physical altercation between you and Ms. Rikas in  
5 the summer of 2012?

6 A. Yes.

7 MR. FITZPATRICK: Objection. Form.

8 BY MS. ATKINS:

9 Q. And the October 19th, 2013 incident, what  
10 physical injuries did she sustain?

11 A. She didn't sustain anything to my  
12 knowledge.

13 Q. If she testified that she sustained  
14 bruises, you're not aware of that?

15 A. I do not wish to talk about that, no.

16 Q. That's not responsive.

17 A. I do not wish to talk about it.

18 Q. Are you refusing to answer my question?

19 A. Because it's a pending case against me, so  
20 yes.

21 Q. It is pending?

22 A. I still have to go to court for it, yes.

23 Q. Which court is it in?

24 A. Will county. I have to go for status

1 updates.

2 Q. And what are status updates?

3 A. On my community service and court fines.

4 Q. Did you enter a plea in that case?

5 A. Like I said, I don't wish to talk about  
6 this case.

7 Q. Did you enter a plea in that case?

8 A. I do not wish to talk about the case  
9 against me.

10 Q. If you entered a plea, it's not pending  
11 against you.

12 A. I do not wish to talk about a case that  
13 I'm involved in.

14 Q. I will probably get a court order  
15 compelling you to come back and answer the  
16 questions.

17 Did you strike Ms. Rikas so hard in the  
18 face that her ear drum ruptured?

19 A. No, I did not.

20 Q. She didn't suffer a ruptured ear drum?

21 A. Not to my knowledge, no.

22 Q. Did she suffer any broken or chipped teeth  
23 as a result of that accident?

24 A. No way.

1 Q. Have you ever known Ms. Rikas to be  
2 injured, physically injured, other than this  
3 May 9th, 2012, incident?

4 A. No.

5 Q. Have you ever known her to be in a car  
6 accident?

7 A. No.

8 Q. Did she tell you about how she struck a  
9 bunch of parked cars?

10 A. Yes, I know about that.

11 Q. Was she physically injured that incident?

12 A. No.

13 Q. Was she intoxicated?

14 A. I have no idea. I don't believe so.

15 Q. In total, you and Ms. Rikas dated  
16 approximately four years?

17 A. Yeah.

18 Q. My math's about right?

19 A. 2009, '10 to '13, yeah.

20 Q. During that time, did you know Ms. Rikas  
21 to drink every day?

22 A. No.

23 Q. In May of 2012, was Ms. Rikas suffering  
24 any emotional issues that you're aware of?

1           A.     Like emotional how?

2           Q.     Was she under any sort of emotional  
3     distress?

4           A.     No.

5           MR. FITZPATRICK:   Objection.   Form, calls for  
6     professional or medical opinion.

7           THE WITNESS:   No.

8     BY MS. ATKINS:

9           Q.     Did she ever express to you in May of 2012  
10    before this incident that she was under any sort of  
11    stress?

12          A.     No.

13          Q.     Did she ever tell you that she was taking  
14    any prescription medication?

15          A.     She wasn't taking any prescriptions.

16          Q.     And you testified earlier that she wasn't  
17    taking any illicit drugs, any narcotics?

18          MR. FITZPATRICK:   Objection.   Asked and  
19    answered.

20          THE WITNESS:   No.

21    BY MS. ATKINS:

22          Q.     And again she wasn't taking any street  
23    drugs?

24          A.     No.

1 MR. FITZPATRICK: Objection. Form, asked and  
2 answered.

3 BY MS. ATKINS:

4 Q. Other than the physical injuries suffered  
5 from this early May of 2012 incident, did Ms. Rikas  
6 tell you that she suffered any other injuries?

7 A. After this incident?

8 Q. Or from this incident.

9 A. Like physical injuries, no.

10 Q. Any other injuries?

11 A. She was always worried around officers  
12 after that.

13 Q. How often were you and she involved with  
14 officers after that?

15 A. Never.

16 MR. FITZPATRICK: Object to the form of that  
17 question.

18 BY MS. ATKINS:

19 Q. So what do you base your statement that  
20 she was worried about officers?

21 A. Like if we see them at Walmart or on the  
22 street or if they pull up next to us or something,  
23 she'd get nervous.

24 Q. Tell me exactly what she told you?

1 A. About what?

2 Q. Being nervous.

3 MR. FITZPATRICK: Objection. Form, foundation.

4 THE WITNESS: I could just see physically she'd  
5 tense up. She'd get worried. You could tell it  
6 kind of screwed her up.

7 BY MS. ATKINS:

8 Q. How long did that last?

9 MR. FITZPATRICK: Objection. Form.

10 THE WITNESS: Few months.

11 BY MS. ATKINS:

12 Q. Have you and she had any specific  
13 conversations about her being nervous or worried  
14 because of this incident?

15 A. Yes. She told me she didn't like officers  
16 anymore, that she used to respect them but she  
17 doesn't do it anymore. She used to -- as respect,  
18 I mean she would look up to them, but now she  
19 doesn't look up to them anymore.

20 Q. Anything else that you and she discussed  
21 that we haven't covered today?

22 A. No.

23 Q. Did you loan Ms. Rikas any money to cover  
24 her medical bills?

1           A.    I believe I helped her pay for some stuff,  
2   but I didn't ask her to pay me back.  It doesn't  
3   matter to me.

4           Q.    Well, you guys were in a relationship --

5           A.    I'm pretty sure I helped her with some  
6   stuff, yes.

7           Q.    Do you know of any outstanding bills she  
8   may have for medical care and treatment?

9           A.    Her hospital bills cost a ton of money.

10          Q.    Has she paid those to your knowledge?

11          A.    No.

12          Q.    She has not paid them?

13          A.    She can't pay them.  She has no money to  
14   pay them.

15          Q.    Does she have health insurance?

16          A.    I don't believe so.

17          Q.    Who does Ms. Rikas work for?

18          A.    She works at the Subway inside of the  
19   Walmart on Jefferson in Joliet.

20          Q.    In May of 2012, was she employed?

21          A.    Uh-hum.

22          Q.    And where did she work?

23          A.    The same place.

24          Q.    The Subway --

1           A.     Inside Wal mart.

2           Q.     She wasn't working at the Tilted Kilt  
3 then?

4           A.     She was over there, too.

5           Q.     Did she only have those two jobs?

6           A.     She waitressed there for a little bit.

7 She also did waitressing job at another bar.

8 I can't remember the name. It was in New Lenox.

9 The Ball Park. I don't know. It's shut down.

10          Q.     When you arrived -- or excuse me -- when  
11 you were ready to testify during the criminal trial  
12 for the criminal case here, did you see any of the  
13 police officers that were present on May 9th at the  
14 court house?

15          A.     Yes.

16          Q.     Who did you see?

17          A.     The heavy-set Hispanic gentleman and  
18 Officer Babusch.

19          Q.     We have the heavy-set Hispanic officer; we  
20 have got Officer Babusch, the white blond guy,  
21 correct?

22          MR. FITZPATRICK: Objection. That's not what  
23 he said.

24



1 BY MS. ATKINS:

2 Q. Did you describe him as a white blond guy?

3 A. I said Officer Babusch.

4 Q. And how did you describe Officer Babusch  
5 in the past?

6 A. Tall, blond, stocky, I guess.

7 Q. I'm sorry. You did say stocky. I  
8 apologize.

9 A. I thought you were talking about just now.

10 Q. I think I said heavy.

11 A. I thought we were talking about before  
12 what I said just now.

13 Q. I'm just trying to line them up because  
14 there were three of them ultimately, correct, three  
15 police officers?

16 A. Well, eventually there were a lot more  
17 than three, but the two main one was  
18 Officer Babusch and the heavy-set Hispanic.

19 Q. You didn't see the third officer, the one  
20 that assisted in handcuffing --

21 A. All I seen was Babusch and the Mexican  
22 guy.

23 Q. -- at the criminal trial?

24 A. Yes.

1 Q. The black female sergeant, you didn't see  
2 her at the criminal trial?

3 A. I don't believe so.

4 Q. Do you know what happened with the charges  
5 against Alex?

6 A. It was a not guilty charge.

7 Q. I know you just moved because you told me  
8 at the beginning that you just moved, do you have  
9 any plans on moving from your current residence in  
10 the next year?

11 A. Hopefully, yes; but I have no idea when  
12 it's going to happen.

13 Q. Will you stay in the same general area or  
14 are you planning moving, moving?

15 A. Well, I plan either to come back towards  
16 back my school or towards my employment. So  
17 Romeoville, Bolingbrook, Naperville, in that area,  
18 Tinley Park.

19 Q. If you do in fact move in the next year,  
20 could you please make sure that Alex knows just in  
21 case we need you for a trial here.

22 A. Sure.

23 Q. You said the last time you spoke to Alex  
24 was couple weeks ago, correct?

1           A.     Yeah.

2           MS. ATKINS:   I don't think anything further.

3           THE WITNESS:   Yeah, a couple weeks ago.

4     I think so.

5     BY MS. ATKINS:

6           Q.     After you got your subpoena to come here?

7           A.     Yeah, I got my subpoena a long time ago.

8           MS. ATKINS:   That's all I have.

9                                 EXAMINATION

10    BY MR. FITZPATRICK:

11           Q.     Mr. Hakala, you just answered a couple  
12    questions about seeing Officer Babusch.

13                   What officers, what Metra officers, were  
14    at the criminal proceedings that were pending at  
15    the Daley Center; and you said you saw the Hispanic  
16    officer and you saw Officer Babusch, correct?

17           A.     Yes.

18           Q.     When you were there -- you were at the  
19    Daley Center at the courthouse outside the  
20    courtroom on the date that the trial actually took  
21    place, right?

22           A.     Yes, I was.

23           Q.     I know you weren't permitted to stay in  
24    the courtroom, but did you see through the glass

1 doors Officer Babusch testifying on the stand?

2 A. Yes, I think so. Yes, it was

3 Officer Babusch.

4 Q. The white officer that came to court, the  
5 white Metra that came to court for the criminal  
6 case, that was definitely Officer Babusch?

7 A. No doubt.

8 Q. No matter what color his hair was?

9 A. No matter what color his hair was.

10 Q. No matter whether he was wearing glasses  
11 or not?

12 A. Yes.

13 Q. No matter what other part of his  
14 descriptions that you want to talk about, the guy  
15 who was at the criminal case, that was  
16 Officer Babusch?

17 A. Yes.

18 Q. Was the guy testifying on the stand during  
19 the trial, was that Officer Babusch?

20 A. Yes, it was.

21 Q. Counsel kept asking about the blond-haired  
22 officer. I don't know what color Officer Babusch's  
23 hair is either.

24 But Could his hair have been a different

1 color?

2 MS. ATKINS: Objection. Calls for speculation.

3 When?

4 THE WITNESS: It could have been.

5 BY MR. FITZPATRICK:

6 Q. I think you said dark blond. At one  
7 point, you were describing what you thought you saw  
8 at the train station.

9 A. Sandy blond.

10 Q. Could it have been grayish blond or  
11 grayish white?

12 A. Yes.

13 MS. ATKINS: Objection.

14 BY MR. FITZPATRICK:

15 Q. You mentioned that you saw Ms. Rikas in  
16 the hospital, that you noticed her teeth were  
17 broken while she was in the hospital, correct?

18 A. Yes, I did.

19 Q. Did you observe if her broken were broken  
20 when Officer Babusch was arresting her?

21 A. Yes, I did. The second time -- or after  
22 the second time he smashed her face into the  
23 concrete when he picked her up, I saw her face her  
24 face. Her teeth were missing, her mouth was

1     bleeding, her nose was bleeding.

2           Q.     When you boarded the train that night with  
3     Alexandra, she didn't have any broken teeth at that  
4     time; is that fair?

5           A.     Yes.

6           Q.     Did she have any broken teeth at any point  
7     in time when you knew her before Officer Babusch  
8     arrested her?

9           A.     Never.

10          Q.     Did you try to take pictures of Alex when  
11     she was getting on the stretcher or after they had  
12     put her on the stretcher after the arrest?

13          A.     Tried to, yes.

14          Q.     What happened?

15          A.     I was -- well, the black Metra officer  
16     lady stopped me. She kept putting her hand in  
17     front of my camera. She kept yelling at me to put  
18     the camera away.

19          Q.     Did she stop you or prevent you from  
20     taking photographs?

21          A.     She got in the way of a few of them, yes.

22          MR. FITZPATRICK: That's all I have.

23

24

1 FURTHER EXAMINATION

2 BY MS. ATKINS:

3 Q. Just a couple follow-up questions.

4 Counsel asked you about trying to take photos while  
5 she was on the stretcher inside the train station.

6 Certainly, you remember that it was just a  
7 second ago, correct?

8 A. Outside the train station.

9 Q. Had you and Mr. Fitzpatrick talked about  
10 that situation prior to today?

11 A. No.

12 Q. The black female officer prevented you --  
13 pardon me.

14 I believe your exact testimony was that  
15 the black female officer got in the way of a few of  
16 your photos, correct?

17 A. Yes.

18 Q. But you were able to take some photos?

19 A. Yes.

20 Q. Have you provided those photos to Alex or  
21 her attorney?

22 A. Yes.

23 MS. ATKINS: I'm going to make a verbal request  
24 for those photos. I do not have those. I'll

1 follow them up in writing.

2 BY MS. ATKINS:

3 Q. You're stating that you provided them to  
4 her attorney?

5 A. Not to her attorney, no. I gave them to  
6 Alex.

7 Q. But other than the female officer standing  
8 in front of you trying to block you, no one else  
9 prevented you from taking photos, correct?

10 A. Chicago police would stand in the way, but  
11 no one verbally told me not to take the photos  
12 besides the female Metra officer.

13 Q. So female Metra officer told you not to  
14 take photos, correct?

15 A. Yes.

16 Q. You were still able to take some photos,  
17 correct?

18 A. I was trying.

19 Q. But you were able to because you testified  
20 that you gave them to Alex, correct?

21 A. Yes, I took photographs.

22 Q. And then that Chicago police officers kind  
23 of tried to block your way, correct?

24 A. Yes.



1 Q. Was that just by standing in front of  
2 Alex?

3 A. Yes.

4 MS. ATKINS: That's all I have. So you have a  
5 choice. There are two ways that we end depositions  
6 here. Either by reserving signature --

7 MR. FITZPATRICK: Hold on. Let me just ask a  
8 few more. Sorry.

9 FURTHER EXAMINATION

10 BY MR. FITZPATRICK:

11 Q. So, David, what you recall is after  
12 disembarking or alighting from the train, you and  
13 Alexandra together, do you recall Officer Babusch  
14 grabbing Alexandra from behind and pulling her back  
15 to the ground?

16 A. Yes.

17 MS. ATKINS: Objection. Asked and answered,  
18 beyond the scope of redirect.

19 BY MR. FITZPATRICK:

20 Q. At that point, you remember Alexandra  
21 making some sort of an effort to break her fall  
22 with her arms?

23 MS. ATKINS: Objection. Asked and answered,  
24 goes beyond the redirect.

1 THE WITNESS: Yes, I do.

2 BY MR. FITZPATRICK:

3 Q. And then after that occurred, what do you  
4 recall happened next?

5 MS. ATKINS: Objection. Asked and answered,  
6 goes beyond redirect.

7 THE WITNESS: After she was dragged down the  
8 first time, she tried to get back up and Officer  
9 Babusch took her by the back of the neck and  
10 smashed her face into the concrete.

11 BY MR. FITZPATRICK:

12 Q. Is it at that point -- after that, is that  
13 when you notice that her teeth were broken?

14 A. Yes.

15 MS. ATKINS: Objection. Asked and answered,  
16 goes beyond the redirect.

17 Are you just going to ask all questions  
18 that have been already asked that he unambiguously  
19 testified to? He's not testified any differently  
20 than before.

21 BY MR. FITZPATRICK:

22 Q. What happened after that?

23 MS. ATKINS: Objection. Asked and answered,  
24 beyond redirect.

1 THE WITNESS: She was handcuffed and  
2 Officer Babusch picked her up by the elbow right in  
3 front of me as I was able to see face-to-face and  
4 that's when I seen her teeth and the blood coming  
5 out her mouth.

6 And then he took her over far away so her  
7 head was furthest away from me and put her head  
8 down on the concrete for the third time.

9 BY MR. FITZPATRICK:

10 Q. I know you had mentioned earlier something  
11 about Alexandra may have been flailing or moving  
12 her body in some manner of that kind, correct?

13 A. Yes.

14 Q. Did it appear that she was trying to hit  
15 the officer or kick the officer at any time?

16 A. Not at all.

17 Q. So when you said flailing, you weren't  
18 implying that she was trying to hit Officer Babusch  
19 or any other officers there?

20 A. No, I was not.

21 MR. FITZPATRICK: That's all I have.

22 MS. ATKINS: As I was saying, you can reserve  
23 your signature or waive your signature. Reserving  
24 your signature means you'll allow the court

1 reporter to print out -- she can't do it today --  
2 but print out the typed testimony for your review.

3 You can correct any spelling errors,  
4 grammatical changes, but not content of your  
5 answers. Meaning you can't switch an answer or add  
6 to an answer. Once you sign off on it, it becomes  
7 official testimony.

8 If you waive your signature that means you  
9 trust the court reporter has accurately taken down  
10 everything that has been said today and you don't  
11 have to review it and it becomes official  
12 testimony. If you reserve, I think it's a 30-day  
13 window from typing it up. You have a 30-day window  
14 to review. If you don't sign off in the 30-day  
15 window, it automatically just becomes official  
16 testimony.

17 So would you like to reserve or waive?

18 THE WITNESS: I'll reserve it.

19 (Deposition concluded at 3:27 p.m.)

20 (FURTHER DEPONENT SAITH NAUGHT.)

21

22

23

24



1     STATE OF ILLINOIS     )

2                                     )     SS:

3     COUNTY OF COOK     )

4                     I, ANGELITA OLANDER, a CSR within and for  
5     the County of Cook and State of Illinois, do hereby  
6     certify that heretofore, to-wit, on the 17th day of  
7     November 2014, personally appeared before me  
8     DAVID HAKALA, a witness in a certain cause now  
9     pending and undetermined in the United States  
10    District Court, Northern District of Illinois,  
11    Eastern Division, wherein ALEXANDRA RIKAS is the  
12    Plaintiff and P.O. THOMAS BABUSCH, et al., is the  
13    Defendant.

14                    I further certify that the said  
15    DAVID HAKALA was by me first duly sworn to testify  
16    the truth, the whole truth, and nothing but the  
17    truth in the cause aforesaid; that the testimony  
18    then given by said witness was reported  
19    stenographically by me in the presence of said  
20    witness and afterwards reduced to typewriting by  
21    Computer-Aided Transcription, and the foregoing is  
22    a true and correct transcript of the testimony so  
23    given by said witness as aforesaid.

24                    I further certify that the signature to

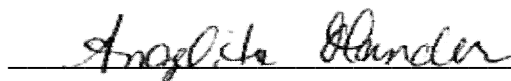
1 the foregoing deposition was not waived by counsel  
2 for the respective parties.

3 I further certify that the taking of this  
4 deposition was pursuant to Notice and that there  
5 were present at the deposition the attorneys  
6 hereinbefore mentioned.

7 I further certify that I am not counsel  
8 for nor in any way related to the parties to this  
9 suit, nor am I in any way interested in the outcome  
10 thereof.

11 IN TESTIMONY WHEREOF: I have hereunto set  
12 my hand and affixed my signature this 5th day  
13 of December, 2014.

14  
15  
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19  
20  
21  
22  
23  
24



ANGELITA OLANDER

CSR NO. 084-004618



1                   McCORKLE COURT REPORTERS, INC.  
2                   200 North LaSalle Street, Suite 300  
3                   Chicago, Illinois 60601-2956  
4                   (312) 263-0052

5                   DATE: December 5th, 2014

6                   Mr. John Fitzpatrick  
7                   36 West Randolph Street, Ste. 301  
8                   Chicago, IL 60601

9                   IN RE: ALEXANDRA RIKAS v. P.O. THOMAS BABUSCH, et  
10                  al.,  
11                  COURT NUMBER: 13 CV 2069  
12                  DATE TAKEN: November 17th, 2014  
13                  DEPONENT: DAVID HAKALA

14                  Dear Mr. Fitzpatrick:

15                  Enclosed is the deposition transcript for the  
16                  aforementioned deponent in the above-entitled  
17                  cause. Also enclosed are additional signature  
18                  pages, if applicable, and errata sheets.  
19                  Per your agreement to secure signature, please  
20                  submit the transcript to the deponent for review  
21                  and signature. All changes or corrections must be  
22                  made on the errata sheets, not on the transcript  
23                  itself. All errata sheets should be signed and all  
24                  signature pages need to be signed and notarized.

                  After the deponent has completed the above, please  
                  return all signature pages and errata sheets to me  
                  at the above address, and I will handle  
                  distribution to the respective parties.  
                  If you have any questions, please call me at the  
                  above phone number.

                  Sincerely,

21                  Margaret Setina	Court Reporter:
22                  Signature Department	Angelita Olander, CSR
23                  cc: Ms. Atkins.	



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